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Ideas on Liberty

SEPTEMBER 1978

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"Affected with a Public Interest" — **Ridgway K. Foley, Jr.** — **515**
The law has made a distinction that lacks economic and moral justification.

The Golden Age — **Ralph Bradford** — **525**
Not in the past, or future; now is the time.

What's In It for Us? — **P. Dean Russell** — **528**
Helpful suggestions on how to promote the free market.

Energy in a Changing World — **Bettina Bien Greaves** — **531**
An overview of "the crisis" and suggested ways to cope.

What the Interventionist Overlooks — **Sheldon Richman** — **542**
A vital distinction between governmental force and market transactions.

World in the Grip of an Idea
21. The United States: The Thrust to Transformation — **Clarence B. Carson** — **546**
The communications industry as an alien force to transform society.

Law of the Jungle vs. the Jungle of Law — **John Semmens** — **558**
The laws to eliminate risks only confront us with additional uncertainties.

Some Thoughts on Taxation — **George C. Leef** — **561**
To avoid injustice, let taxation be based on the principle: You pay for what you get.

Book Reviews: — **570**
"Textbooks on Trial" by James C. Hefley
"Welfare: The Political Economy of Welfare Reform in the United States" by Martin Anderson

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Leonard E. Read, *President*

Managing Editor: Paul L. Poirot
Production Editor: Beth A. Hoffman
Contributing Editors: Robert G. Anderson
Bettina Bien Greaves
Edmund A. Opitz (Book Reviews)
Brian Summers

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Ridgway K. Foley, Jr.

"AFFECTED WITH A PUBLIC INTEREST"

JURISTS often weave erratic seams in the legal fabric we call jurisprudence. Once rooted in the law, error seems to possess all the tenacity of crabgrass; aided by the concept of *stare decisis* (stand by previous decisions) and the juridical tendency never to undo what has once been accomplished, error takes sustenance and proliferates, until a whole body of normative rules wells up and covers the territory.

This article deals with just such a concept: the doctrine that governments can regulate and control business enterprises "affected with a public interest." In varying guises, this postulate with its myriad tentacles has strangled freedom for almost a century, although its antecedents can be discerned in earlier Anglo-American reports.

The American birth of the rule took place in 1876 in a decision by the Supreme Court of the United States entitled *Munn v. Illinois*,[1] the most important of the so-called "Granger" cases presented to the Court at the same time. The Supreme Court of the United States upheld a Minnesota law which required grain warehouses to secure a license and to comply with price restrictions in order to operate as a business. The rationale of the court: grain warehouses were "affected with a public interest."

In 1933, during the throes of depression occasioned by government interventions into the economy, the

Mr. Foley, a partner in Souther, Spaulding, Kinsey, Williamson & Schwabe, practices law in Portland, Oregon.

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doctrine received impetus to strangle all manner of economic concerns in the case of *Nebbia v. New York*[2] which prohibited price reductions in enterprises "affected with a public interest."

The lack of judicial understanding of economic and moral values appears in the following statement:

> The court has repeatedly sustained curtailment of enjoyment of private property, in the public interest. The owner's rights may be subordinated to the needs of other private owners whose pursuits are vital to the paramount interests of the community.[3]

A wiser decision, and one justified by sound reason of political economy and morality, permits anyone to engage in any business at any time unless he initiates aggression or practices fraud upon another.

The overweening coercion emanating from, and justified by, *Munn v. Illinois* and *Nebbia v. New York* impels us, even at this late stage, to examine the foundations of the doctrine. What does "affected with a public interest" really mean?

All Businesses Which Survive Serve the Public

What businesses are cloaked with a public interest? A better inquiry: what enterprises are *not* affected with a public interest? Upon examination, one finds that he can make an equally good case for the public interest in all endeavors, and not just grain warehouses, wharves and taverns. The only business not affected with a public interest is one which fails to serve the public. The sole business I can conceive of which does not serve the public is one which sinks into bankruptcy.

Once again, we discern a judicial decision which fails to accord with sound principles of economics and human action. The majority in *Munn v. Illinois* could not perceive that the only reason for the existence of any business enterprise is to create and transfer goods or services to willing recipients.

A successful business is one which satisfies enough consumers or customers at a high enough price so that the enterprise returns a profit to those individuals who have contributed to the entrepreneurial activity. An unsuccessful business is one which does not attract and satisfy sufficient customers at a sufficient price to generate a profit and encourage maintenance of the necessary capital investment.

To the extent that customers express satisfaction in a product or a service, in continued purchases, the producer serves the "public interest." To the extent that no customers seek the creations of a business, there exists no "public interest." Thus, we can say with some certainty that Edsel Motor Division of Ford Motor Company was not a business "clothed with a public

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interest." On the other hand, any individual or corporate business which does attract and hold customers is, at least to that extent, "affected with a public interest."

All Interests Are Truly Private

But the problem demands deeper consideration: How should we define "public interest"? What is the public? In a very real sense, all inhabitants of a given community or territory constitute that particular public, for a public refers to a community or populace at large in their common, nonprivate characters and capacities.

As with other terms, however, the phrase "public interest" has undergone a certain corruption at the hands of the illiberal element. Currently the words seem to convey a belief that the public interest overrides any personal or individual interests. Yet, all interests derive from persons. In that sense, all interests are private interests, at least at their genesis.

You like ballet; you band with others to form a civic ballet association to promote the art. Seminally, the community interest in ballet existed as a wholly private interest: yours. As you gain adherents, does the interest take on an altered character, or does it remain a distinctly individual undertaking? If the private interest changes into a public interest, do we measure such dynamism by the number of supplicants or the character of the interest, or in some other manner? In other words, what is it which transmutes a purely personal individual value or desire into one of such overpowering essence and force that it can be termed a "public interest" and justify the limitation upon the freedom of individuals?

Private and Public Interests Are Not Susceptible to Differentiation

The difficulty in responding to these rhetorical questions lies not in the answers but in the inquiries themselves. It is a difficult task to state a question neutrally, and these particular questions rest on a presumption that we can define and differentiate private and public interests. In truth, we cannot do so.

As commonly used, a private interest may be defined as a value[4] held by an individual. Since each man is a unique and discrete being, each man possesses a separate set of values or interests. I may be interested in baseball, you may prefer ice hockey. I may enjoy picking a guitar and singing; you may consider my renderings anything but musical. Each person, by his ideas, his words, and his conduct, holds and expresses these values which make up his private interests. He seeks to advance these interests, to enjoy them, to introduce others to them. Nonetheless, these interests

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never lose their individual private character.

The True Meaning of Public Interest: Coercion Writ Large

On the other hand, no such thing as a public interest exists, despite continual use of the phrase.[5] When one utters that pair of words, he means to convey a thought most aptly derived from *Munn v. Illinois:* he means that some private, personal, individual interest or value of one or more persons is, in the speaker's subjective opinion, of such overwhelming importance that all members of society should embrace it as eternal verity and that if any other private, personal, individual interest or value conflicts with the advancement of the first interest, the conflicting interest must be shunted aside, depriving the holder or holders of that second interest of their liberty or right to enjoy and advance the second interest. In plain language, the "public interest" represents a power tool to coerce those who disagree with the idea or subjective value advanced by the statist.

Consider this definition in analysis of some of our earlier examples. My pleasure in baseball may exist side by side with your interest in ice hockey; each private interest receives and satisfies its own followers. Should too few persons share my interest in baseball, and refuse to patronize supporting advertisers and to buy grandstand seats, my favorite home team may move away to Spokane, for the owner has a private interest in making a return on his capital investment. If he does not make a return in Milwaukee, he will move to Atlanta; if he makes an insufficient return in the latter city, he may travel elsewhere or he may reinvest his remaining capital in an entirely different venture, one which attracts and pleases more people.

Now notice what will happen if I am able to convince the government that baseball is an enterprise "affected with a public interest." I may attend the games because they accord with my personal, private, individual interest. You, however, prefer to spend your earnings on the hockey games. If you and others who do not share my interest in baseball preponderate, the owner and operator of the team will lose money. Yet, if his business is "affected with a public interest," he cannot move the team to the most favorable location, or raise his prices, or take any other ameliorative steps. Instead, he must either remain captive and lose money (destruction of his capital), sell to someone else who will remain and lose money, or secure a subsidy or other favors from the government. Most "public enterprises" follow the latter course.

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Subsidy and monopoly inevitably lead to regulation and disallocation of economic goods. One common result: increased taxes for all members of the community to support the team in the "public interest." I might well be willing to pay extra taxes to advance my private interest turned public, but chances are, I would rather mulct my neighbors, thinking that this endeavor represents the greatest good. In any event, you will be deprived of your capital (which you would ordinarily use to support the hockey team) against your will, and you will be compelled to watch your privately and justly earned funds spent on an endeavor you dislike, an endeavor which cannot carry its own weight in the free market.

Let Each Support His Own, Without Forcing Others

The only fair method of allocating scarce resources between numerous activities commands each man to support that which he values with that which he has created, and to compel no other man to act contrary to his desires. Justifiable societal action consists of the coercive prevention of force and fraud and the preservation of a system of settling disputes, and no more. Myriad activities can take place concurrently, with no forced adherence to any particular one. If any endeavor lacks supporters, it must pass from the scene until new support appears. When this concept replaces the doctrine of "public interest," when the "public interest" shibboleth reveals its true nature, freedom regains its exalted place.

As demonstrated earlier, any business not in bankruptcy is "affected with a public interest" in the sense that some customers (the "public" of that enterprise) find satisfaction in the products supplied. Mr. Justice Field recognized this a century ago when he declared:

> The public is interested in the manufacture of cotton, woollen, and silken fabrics, in the construction of machinery, in the printing and publication of books and periodicals, and in the making of utensils of every variety, useful and ornamental; indeed, there is hardly an enterprise or business engaging the attention and labor of any considerable portion of the community, in which the public has not an interest in the sense in which that term is used by the court in its opinion. . . .[6]

Thus, the phrase not only connotes a coercively imposed choice by some adherent of a cause, but also descends into meaninglessness. It becomes a catch-phrase employed by courts to justify the unseemly result of depriving someone of his liberties, a juridical make-weight. Of course, the community possesses the naked power to pilfer and destroy. That is not to say that looting and coercion

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is justified, nor can one honestly credit a grain warehouse or a milk seller with cloaking their enterprise with a public interest. Such a statement reminds one of a robbery victim pilloried by the community for owning property of interest to the miscreants.

No entrepreneur cloaks his business with a public interest. Each person evaluates his talents, creates capital, and plunges into an enterprise which he believes will satisfy the public and produce a subjectively acceptable rate of return. Employing the jabberwocky of the Supreme Court, one cloaks his business with a public interest when he serves the public well.

The Concept Extended; Public Utilities

Venturing forth from the holding of *Munn v. Illinois,* the courts in the past one hundred years have justified all manner of regulation of, and intrusion into, the private affairs of those businesses denominated "public utilities." A public utility has been defined as a business regularly supplying the public with a particular commodity or service of "public consequence or need."[7] In simple terms, a public utility supplies a product which some of the public believes that all must have.

The mere statement of the definition expresses the ambiguous and tautological nature of the phrase, similar to that encountered in defining "public interest." Anything and everything can fit the definition, depending on the values of the speaker.

Early inroads occurred in medieval England in the realm of food, drink and lodging.[8] Inadvertent poisonings occurred with some frequency and the traveler often found himself at the mercy of the innkeeper. Because sustenance and lodging formed the "necessities" of life, those who supplied these goods and services soon came to be labeled as "affected with a public interest" or some such nebulous phrasing signaling a limitation upon the suppliers' freedom. Of course, laws preventing coercion and misrepresentation amply protect the consumer.

In subsequent centuries, all manner of businesses fell in and out of the category of a "public utility," depending on the current whims and fads of those in power. Companies supplying water, fuel, power, energy, and transportation quickly come to mind. In almost every instance, the so-called public utility supplied goods or services which were greatly in demand; this factor seems to make one of the two distinctions between "public utilities" and other endeavors. The other apparent criterion for speaking of a particular business as a public util-

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ity appears to rest on the fact that, while many individuals seek the goods or services provided, only a relatively few producers choose to offer such wares.

These two reasons require analysis in order to determine if any veracity resides in the rule singling out some businesses as "public" and limiting their freedom of action. We have already discerned that the mere attribution of the term "public" to a business presents an exercise in banality, since all businesses which sell goods or offer services demanded by someone else serve that portion of the "public." Nevertheless, is there any reason why we should treat some activities differently because (1) many persons desire the product or (2) few persons supply the product?

Universality of Demand

First, consider the universality of desire. Economics considers the distribution of scarce goods, not free (abundant) goods. This science posits, as a first principle, the proposition that human wants are insatiable and competing, and economic goods (the subjects of those wants) are scarce. Values, being subjective, vary from person to person. Some desires crop up more frequently than others: the need for food, clothing, shelter, transportation. Yet the mere universality of these wants affords no rational basis for treating the supplier with disdain or coercion.

Let us accept the postulate that man requires food to survive. It does not logically follow that the producer of grain, a farmer, must be restricted in his liberty merely because others gain sustenance from the grain. Suppose the farmer desires not to sell; he created the value (grain)—he should be able to eat it, hoard it, destroy it, do with it as he pleases. Such a right accords with justice and with the axiom that each man owns the absolute right to live his own life and to choose his own destiny without interference from any other human being, so long as the actor does not coerce or defraud another individual.

The farmer does not coerce or defraud the would-be consumer by holding onto his grain. The consumer retains the choice to eat beef, or olives, or jello, or to purchase grain from another farmer. Or, if he really wants the first farmer's grain, he will pay the price which represents the concatenation of values between farmer and producer. After all, grain is a perishable commodity and the first farmer will not want to store his crop forever lest he lose his entire capital investment. And, the first farmer cannot exist on grain alone; he requires a balanced diet, shoes for his children, blankets for his bed, tobacco for his pipe, books for his pleasure, and countless other

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items which grade from necessity to luxury, depending upon the particular set of values held by the actor.

One may urge that individuals cannot survive without food and drink and, therefore, these products demand special dispensations. True, persons cannot survive for long periods without food and water; that fact does not justify restriction upon the liberties of others, so long as the others do not employ force or fraud.

We might conjure up a hypothetical example where a cruel creature hoarded food while others starved. Yet those who desire the food possess no moral right to take from the producer that which he has created. One need not evidence much perception to discern that few persons, if any, will fit the hypothetical mold of evil, and that other citizens abound who possess sufficient food and beverage to alleviate any impending starvation and who display a willingness to do so. Sympathy etches the character of the free man. The supposition that one miscreant would and could corner the supply of food and drink (or any other product) and sit idly by while others go without sustenance remains the wildest sort of whimsey, wholly out of union with reality.

The Apparition of Monopoly[9]

Second, consider the possible monopoly of production. Those who employ the concept of "public utility" fear the concentration of power

Competition Assures Efficiency

It is apparent that a change in transportation costs, production technology, management, or any other cost factor can upset a monopolistic position. Also, a concentration beyond the optimum point is an invitation to failure, for the unit costs of production tend to increase again. The monopolist who disregards this fact invites potential competitors to invade his field and reduce him to his optimum size. There is no need for government to break up a giant enterprise; if it were too large, the competitors would reduce it. . . .

. . . Of course, it is most unnatural and unlikely for a businessman to rise to eminence through product improvements and lower prices, and then suddenly to turn toward output curtailment and price increases. But if he should act in such a manner, which is conceivable, he practices self-destruction.

HANS F. SENNHOLZ, *"The Phantom Called Monopoly"*

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over the supply of a given product in one or a few men.[10] If a concentration appears, history proves it likely to be ephemeral.[11] If one man produces goods or services so much in demand that he makes a profit, other entrepreneurs will follow him into the field and reduce the cost to the consumer. If only a few supply the many, it is simply because those few are the only ones who freely desire to invest their capital in the enterprise, probably because the potential return lacks sufficient attraction to other enterprising venturers.

Proponents of the public utility concept often tender a collateral argument: public utility monopolies justify on the basis not only of the need of the public (demonstrated heretofore to be sham), but also on the preservation of capital. This contention assumes that competing public utilities would duplicate service and thereby act uneconomically because of the extensive capital investment commanded. Such a suggestion raises the immediate inquiry of whether, assuming the truth of the argument, such facts really justify the destruction of freedom.

More saliently, however, every producer competes with myriad others, both for the entire consumer dollar and for that part of the consumer dollar normally expended on such products. To this extent, each producer duplicates investment with others, yet no one decries the competition between Montgomery Ward and Sears, Roebuck, or between Albertson's, Fred Meyer, Safeway, and A & P. Indeed, those most vociferous in favor of "competition" as a goal often inconsistently acclaim virtue for monopoly in the "public utility" arena.

If two power companies serve the same area, and duplicate transmission lines, so what? Each will remain ensconced in business only so long as it provides a satisfactory service to its customers. Indeed, increased competition inevitably leads to better service at a lower cost, with ultimate benefit to the purchaser. If one of the power companies cannot compete effectively, it will leave the industry and convert its capital to other, more favorable uses.

Competition no more destroys capital here than in any other business milieu; if capital is wasted or destroyed, that amounts to one of the costs we must be willing to pay for freedom. If one of the competing power companies leaves the field, the public utility proponents apprehend the increased cost to the "public" of this "necessary" service. Of course, the "public" possesses the ultimate weapon: it can refuse to purchase the service and thus drive the producer out of business (even if the service constitutes a "necessity," substitutes generally exist). Or,

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more likely, a competitive producer, attracted by profit, will enter the field and offer the same service for a lower price.

Thus, we perceive that reason entitles no enterprise to the appellation "public utility" or the special advantages and regulations which attend such a designation. No business can be truly said to be "affected with a public interest" in the sense that such an endeavor should be subjected to special rules. Equal treatment should be the bench mark of state/business relations.

Persistent repetition of the "public" concept of business enterprises permeates the past century of American history, rendering the hypothesis of almost universal acceptance. One can only pray that succeeding generations will visit the issue with precision and clarity of analysis and not be betrayed by the hoariness of age. Old myths die hard, but pass away they must if freedom is to become enthroned. One can pierce the fiction of a "public" business by recognizing that no business possesses "public" functions; the only business of business is business, the supplying of the best possible goods and services at the highest possible return to the greatest number of customers. If any business performs this function, it will amply serve the public interest.

—FOOTNOTES—

[1]94 U.S. 113, 24 L. Ed. 77 (1876).

[2]*Nebbia v. People of State of New York,* 291 US 502, 54 S. Ct. 505, 78 L.Ed. 940 (1934).

[3]*Ibid.*, 291 U.S. at 525.

[4]The concept of value provides a separate topic of discussion beyond this essay.

[5]One may wonder if man can conceive of that which does not exist. Unicorns on the moon and the vagaries of science fiction should dispel this question. Man seems destined to conceive, and act upon, political and economic fantasies.

[6]Note 1, *op. cit.*, 94 U.S. at 141.

[7]See *Gulf States Utilities Co. v. State,* 46 SW 2d 1018, 1021 (Tex Civ App 1932); Black's Law Dictionary (4th Ed., West Publishing Company, St. Paul, Minn., 1957) 1395.

[8]One should not lose sight of the fact that English law, while possessing similar roots, differs markedly from the American experience, the latter stressing human liberty and the free market to a greater degree.

[9]See Note 1, *op. cit.*, 94 U.S. at 130-132, where Mr. Chief Justice Waite stresses the "monopoly" aspects of grain warehouses.

[10]How singular that most of these theorists express no concern over the concentration of monopoly power of coercion (government) in the hands of the few and the incompetent, yet quake with the thought of free market concentrations.

[11]Better minds than mine have exposed the illusions which pockmark the chimera of monopoly. See, e.g., Sennholz, Hans F., "The Phantom Called Monopoly," VII *Essays on Liberty* 295-317 (Foundation for Economic Education, Inc., Irvington-on-Hudson, New York 1960); Armentano, Dominick T., *The Myths of Antitrust* (Economic Theory and Legal Cases) (Arlington House, New Rochelle, New York, 1972); Rogge, Benjamin A., "Will Capitalism Survive?" III *Imprimis No. 5* (May 1974), discussing Joseph Schumpeter's *Capitalism, Socialism and Democracy* (1942).

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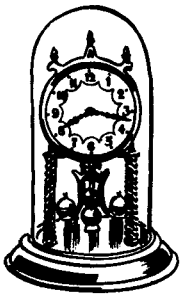
Ralph Bradford



The Golden Age

No MATTER how far afield we may grope, our more serious speculations seem to follow a pattern that arises from the conditioning of our lives. That conditioning, in its starkest simplicity, is that we enter the world of the living, we exist in it for a period—and then we pass on.

Therefore we are concerned with where we came from, what we are doing and why, and where we are going. All the philosophies of mankind have been built about these three questions; and it is significant that we are always more interested in looking backward and forward—reliving the past and projecting the future—than we are in understanding, using, and enjoying the present.

It is sad that we spend so much time and energy, both physical and emotional, in retrospect and anticipation, and so little in the conscious savoring and utilization of the present moment. Some scholars explain this by citing the legend of the Golden Age—the concept of a far-distant time when all mankind was happy, and of a future day when they shall be happy again. Thus the Garden of Eden, the Expulsion, and the hope of Paradise Regained. Thus the Heaven and Hell of nearly all religions.

Some other psychologists have their own explanation, which they call the theory of intra-uterine blessedness. They argue that the only time of perfect peace and comfort known to man is the period spent within the warm, protecting, nourishing body of his mother. That period, they say, was the Golden

Mr. Bradford is well-known as a writer, speaker, and business organization consultant. He now lives in Ocala, Florida.

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Age, and all our groping toward a future state of bliss—toward tomorrow's happiness—is but the vague hope of attaining once more the perfect contentment of the prenatal period. They have a point.

Facing the Present

The poet Swinburne, in one of his better moments, penned a significant phrase: "From hope and fear set free." In it he came close to the understanding of our constant backward-and-forward looking. If the demands of rhyme and meter had permitted him to add "regret" he might have completed the trilogy of emotions that keep our minds away from the present. For we regret only that which is past. We fear only that which may happen tomorrow—or this afternoon. And we are not hopeful about the present, only about the future—whether it is to be ten years or ten minutes hence.

But we live *now,* in this present moment. To be sure, the bit of existence called "now" extends infinitely across time, both into what we call the past, and into what we term the future. Warm memories of the past are pleasant things; hopeful anticipation of the future is part of our soaring optimism. But today, this hour, this instant—that is the moment of living. If it has its dark side, it comes usually from either regret or fear. But regret is of yesterday; fear is of tomorrow. Neither can touch today, save as a man thinketh in his heart.

Of course it is only the rare soul that can set itself free (as Swinburne phrased it) from hope and fear. It is only the near-to-God who are released from regret. Yet it is in the attainment of these perfections, or the close approach to them, that we come nearest to perfect peace.

But in the external, practical sense, there is another reason for being concerned about the present. There is much talk these days about the future of our country. Air waves and news columns are full of it. What about the dollar—is it safe? What about education—is it adequate? What about Social Security—is it solvent, and indeed, "secure"? What about our long-continued inflation? The increase of crime? Juvenile delinquency? Drug addiction? What of our relations with the rest of the world—NATO, SEATO, OAS? What are we going to do about . . . ?

Going to do! Future action! Actually, it is what we are doing now, today, this minute, that will determine our fate, rather than what we are planning to do. We are charting the future, not in our plans for it, but in our present actions. Man, said Emerson, is where he is by repeated choice. The present is explicitly the result of the past. Society, like life, is a continuous flow. Every act and

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decision of today will determine our tomorrows.

To put it concretely, if we want to have an economy and a society that is based on freedom, we shall have to begin *now* to talk and think in terms of freedom, rather than in the cliches of continued and increasing statism, for the one is the negation of the other. Political candidates who profess to favor a free society and a free economy will have to talk and think about insuring freedom, rather than bidding for votes by promising first one and then another segment of society that each will be given special benefits and privileges not accorded to others, but paid for out of the common treasury. Businessmen who proclaim themselves as being for the free market philosophy will have to learn what underlies and undergirds such freedom, and stop saying, in effect, "I'm for freedom—but. . . ."

Today Sets the Future

Plans for the future are fine if they are based on the concept of freedom. But the best laid plans of today may not be important when they are finally (if ever) brought to completion. But what is *done,* now, what is done *now*—this will determine what the future will be like. And surely no crystal ball or particular prescience is needed to predict a future that is based on insolvency—on a long-continued program of spending each year more than is taken in, going constantly in debt through borrowing, and printing more and more paper money on the basis of the artificial credit thus created. The history of nations tells the story.

And if disastrous inflation should come, as it has elsewhere in the world under similar conditions, the first to suffer would be the people of small means and limited income, for whose imagined "benefit" most of the big-spend programs are supposed to be initiated! If present-day legislators and other political leaders continue to pile debt on debt, with no thought of how that debt is to be discharged or even reduced, and if the weight of that debt, hanging over the economy, continues to undermine the value of our money—who will have benefited?

Is there a connection between the vision of a safe and beautiful future and the dwindling value of our money? Yes! Repeat . . . *yes!* And this is not to put a dollar tag on happiness or security or any of the other "human" values that are so glibly recited—and so little understood. Man does not live by bread alone, but the price of bread can be of great symbolic and practical importance. Ask any elderly German who remembers the bleak period between the wars when, because of inflation, a loaf of bread cost a million marks or more.

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Ask any citizen of Argentina who has had the value of his life savings wiped out by the inflation that country experienced as a result of big-spend-never-pay policies.

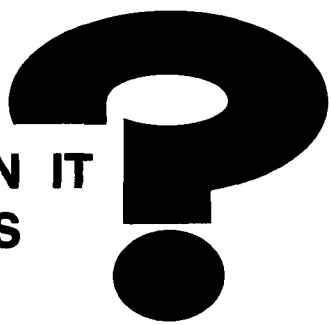
We can and should "live in the past" to the extent that we are willing to study history and profit from its lessons. We can and should "live in the future" to the degree that we understand it to be only an extension of the present, profoundly influenced by what we do today.

But NOW is the moment of life. Paradise may indeed be lost through the sins of ignorance, selfishness and indifference. It can be regained through sacrifice and self-denial and the exercise of wisdom. But it is better not to regret a Paradise that is lost, or anticipate one that is to be regained. Just as there is something of God in every person, so there is something of Paradise in every moment, if only it can be realized and cherished.

Today, this hour, this moment—this is the Golden Age.

P. Dean Russell

WHAT'S IN IT FOR US



THE retiring board chairman of Sears, Roebuck and Company plans to devote a considerable amount of his time to explaining business problems to college students and teachers.

"It is important that we dispel some of the erroneous and misguided thinking about the American business system," said Arthur M. Wood, "and that we communicate our viewpoint to faculty members as well as students."

I wish him luck. And, since I've devoted many years to precisely the same task, perhaps Mr. Wood will consider an idea or two on communications I've picked up along the way.

First it's necessary to understand why Sears beat all its competitors last year, with sales of $17 billion and profits of $900 million. I'm quite

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Dr. Russell is Professor of Management, University of Wisconsin at La Crosse. This article is from his lecture notes for a course in "Business Communications."

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sure that the retiring chairman understands that their success was due solely to their ability to produce what we consumers want at prices we are willing to pay. Please note that I said "they produce what we want," not necessarily what we need or should have for our own good. That's the key to success: give us what we want in retailing, politics, or any other area where consumers have a choice.

I've observed the frustration of scores of successful business managers in their sincere efforts to "make a contribution to America" after they retire. They are usually unsuccessful. They forget that we patronized them in the past *only* because they gave us what we wanted. Suddenly they decide to become statesmen instead of market men, and to give us what we need and should have for our own good. If they had followed that policy as businessmen, they would have failed there just as they will now surely fail in their efforts to sell us the idea that business and profits are good for the nation.

Why Should We Change?

If Mr. Wood wants to change our anti-business attitude, he's got to explain what's in it for us. Why should we change? After all, those fat-cat capitalists are ripping us off and making enormous profits at our expense, aren't they?

If that's not so, then Mr. Wood should offer us some specific (and persuasive) examples of how we underlings also are better off when business is profitable. If that approach appeals to him, here are a few possible examples he might use.

According to Professor Peter Drucker, the actual owners of our largest corporations are the pension funds of employees, teachers, and similar groups. For example, both of my teacher retirement funds (private and state) own billions of dollars of the common stock and bonds of Ford Motor Company and various other industrial giants. The president of General Motors is not the owner of that company, as so many of us seem to believe. He's an employee. We common stock owners (mostly persons who hold the stock for retirement purposes) hired him to manage our company for us. He may or may not own any GM stock himself; it's not relevant to his position as president.

The size of the retirement pension of teachers, teamsters, and GM employees is directly dependent on how much profit the president of that company (and others) makes for the owners. To cite another company in the same way, if Kodak makes high profits, my pension check from both of my teacher retirement funds will be bigger. But if Kodak continues to make small profits, I'll just have to work longer than I have in

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mind. That same "pension connection" exists for the overwhelming majority of all of us.

According to the American Council of Life Insurance, most of the cost of my insurance is *not* paid by my premiums but by the profits earned on the ownership shares of companies the insurance agencies have invested in. If the industrial giants make no profits, the Council estimates that my insurance premiums could increase by 65 per cent.

How Profits Serve Me

The higher the profits of America's big businesses, the more money I get when I retire and the *less* I now have to pay for insurance of all kinds.

That's why I'm in favor of profits—high profits—Mr. Wood. I don't care much about the alleged fact that big business needs bigger profits to buy more machines and equipment. And I can't get real excited about how much money is behind every job in America. Statistics bore me. Anyway, isn't that the sort of stuff we owners hire professional managers to handle for us? We pay them well—in fact, extraordinarily well—to keep our facilities intact and things like that. My concern is a dependable source of funds when I retire. And I'm well aware that it can't come from any source other than the profits of big business. That's why I become unhappy when profits fall off and the stock market goes down. That's when I begin thinking about new managers for "my companies"—and also for my country.

I'm also opposed to the current double tax on profits—you know, about 50 per cent when the company first earns the profit, and then about 25 per cent more when I get what's left in dividends. This strange method of taxation increases my insurance premiums and decreases the size of my retirement check. Don't try to tell me that this double taxation is bad because it cuts down on needed capital formation. I don't really understand (or much care about) that. All I know, Mr. Wood, is that if you had used that dull, academic approach as the top manager of Sears, I'd have closed out my account with you and opened one with Wards.

While you were at Sears, you gave me what I wanted, and you always told me what was in it for me. Please continue to follow that sound rule in your explanations of competitive enterprise as the business system most likely to give all of us what we most want. We may not always believe what you say, but you are sure to attract our attention when you tell us what's in it for us.

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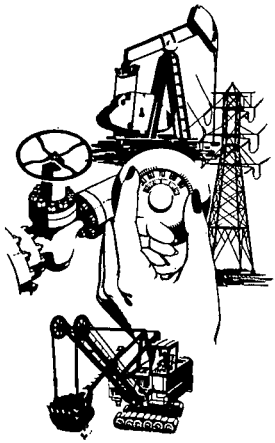
Bettina Bien Greaves



Energy in a Changing World

FEW PEOPLE have the vision to conceive new ideas. Most of us wear mental blinders and can only visualize conditions continuing more or less as they are.

Early in the Industrial Revolution, short-sighted men predicted a fuel shortage. When the forests of England had been laid bare, there would be no more firewood for private homes and the small factories springing up across the land. Such short-sighted men again expected a fuel shortage in the middle of the 19th century. Large numbers of whales were being slaughtered and whale oil, used for illumination, was becoming scarcer. Also, the industrial demand for coal was overtaking the quantity that could be readily mined. Even the noted economist, William Stanley Jevons warned "that we cannot long maintain our present rate of increase of consumption; that we can never advance to the higher amounts of consumption supposed . . . that the cost of fuel must rise, perhaps within a lifetime, to a rate injurious to our commercial and manufacturing supremacy; and the conclusion is inevitable, that our present happy progressive condition is a thing of limited duration." (*The Coal Question,* 1865/1866)

All such "doomsters" wear mental blinders. Those who predicted dire consequences when England's firewood was gone reckoned without the development of huge waterwheels to harness the energy in rivers and streams. They did not

Mrs. Greaves is a member of the senior staff of The Foundation for Economic Education. She is the author of *Free Market Economics* (2 volumes, *Syllabus* and *A Basic Reader,* 1975).

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foresee the use of coal and the invention of the steam engine. Thus, they could not anticipate the factory system and large scale mass production. Nor could 19th century doomsters foresee the development of electricity and the new era in production and transport that was to be ushered in with the discovery of oil in 1864 in western Pennsylvania and soon thereafter in Texas. Step by step producers began to shift from coal to oil as their primary source of energy. Then, with the disruption of traditional trade channels during World War I, oil became a major fuel worldwide.

Those who have prophesied doom in the past have their modern counterparts. Many persons today foresee the exhaustion of domestic oil fields and catastrophe as a result. They also fear our continued dependence on oil imports and believe we should become self-sufficient in the field of energy. They believe we must explore every possible new energy source, even by using exotic and presently uneconomic methods of production. They urge extraordinary means to encourage the domestic development, production and distribution of energy. They caution consumers to conserve in every possible way. They say we may have to learn to live with fewer automobiles and less electricity.

Impatient with their failure to persuade others to their view by peaceful means, many persons now advocate strong government action. They propose to use tax funds to spur the development of new energy sources, to stimulate domestic production, to plan distribution and to discourage consumption. Many a self-respecting politician today feels he is ill-prepared to hold office unless he can offer some proposal for a "comprehensive" energy program.

Federal Government Intervention

Prior to World War I, the U.S. government had little to do with the development of energy and the production and distribution of power. But since then, countless energy-related programs have been enacted. Each was designed to cope with some particular situation that seemed urgent at the time. The Federal Power Act (1920) set up the Federal Power Commission (FPC) which now regulates and controls interstate aspects of electrical power, petroleum and natural gas. In 1935 public utilities holding companies were brought under the Securities and Exchange Commission.

The U.S. government is now up to its neck, so to speak, in the energy field. Through the interstate commerce provision of the Constitution, it deals with major energy users such as the railroads, buses, airlines and shippers of fuel. The Natural Gas Act of 1938 gave the FPC au-

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thority to regulate the "sale in interstate commerce of . . . gas for resale." In 1954, the Supreme Court clearly held *(Phillips Petroleum Company v. Wisconsin)* that the interstate sale of natural gas came under FPC jurisdiction. As natural gas and oil are often found together, by fixing the price of natural gas artificially low, the FPC created a bottleneck in oil production also. Legal distinctions have led to different prices for gas and oil sold interstate and intrastate. When price ceilings discouraged the production of oil, a two-tiered price system was introduced to spur new production. Higher prices for "new oil" were allowed, to the disadvantage of "old oil" producers.

Labor legislation and safety regulations have involved the government in coal mining and many other energy-related industries. The federal government has built dams and reservoirs, developed and distributed hydroelectric power through such agencies as the Tennessee Valley Authority, the Bonneville Power Administration, the Southwest Power Administration, and the like. Among other energy-related government agencies there are the Offices of Oil and Gas, Coal Research, Water Resources Research, Land Use and Water Planning, Energy Data and Analysis, the Bureau of Mines, the Mining Enforcement and Safety Administration, the St. Lawrence Seaway Development Corporation, and various administrations—Federal Aviation, Federal Highway, Federal Railroad, Urban Mass Transportation, and so forth.

Attempts to coordinate all these energy-related programs have led to various federal government offices—the Energy Policy Office (June 29, 1973), Office of Petroleum Allocation (November 27, 1973), Federal Energy Office (December 4, 1973) and the Federal Energy Administration (May 27, 1975). Then last year the Federal Energy Administration was converted into a full-fledged department with cabinet status. In the hope that the patchwork quilt of energy-related government programs could be shaped into one comprehensive consistent and efficient scheme, the Department of Energy was officially established on August 4, 1977—with a $10 billion annual budget, several hundred million more than is spent in a year on drilling and exploring for oil.

Actions Have Far-Ranging Consequences

We must remember that no action has just a single consequence. Making one choice means forgoing others. And the effects of an action taken and of choices forgone may be substantial and widespread. When Congress levies a tax, regulates production, tries to control prices or to

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stimulate certain industries with special privileges, it does much more than it intends.

If Congress imposes a legal ceiling on fuel prices, for instance, it may force the nominal price of fuel down temporarily. But at the same time it encourages consumers to buy more, to be less provident and more wasteful of fuel. It also discourages investors and producers in the fuel industry.

In the attempt to compensate for these effects, Congress may then pass other laws to subsidize fuel production. These may spur producers to special effort for a time. But other consequences will soon become apparent as extra costs appear—higher taxes, inflation and/or credit expansion. In time almost everyone is contributing to the costs of the government programs through taxes and higher prices of everything including fuel.

The manipulation of costs and prices also has repercussions abroad. If the domestic price of fuel is kept artificially low, less will be available on the domestic market. Both foreign and domestic producers will look elsewhere for markets where they can sell at higher prices. If the domestic price of fuel is kept artificially high, imports will rise if not prohibited. Yet, such increased international division of labor and trade, though beneficial to consumers, is now considered contrary to the government's professed goal of energy "independence."

Every government intervention is bound to have some unexpected and unwanted effects. To cope with each problem in turn, one government intervention after another is proposed. One government agency is erected on top of others. Yet the goal the legislators are pursuing continually eludes them. They find it impossible to manipulate prices and production so as to keep the prices consumers pay *down,* while at the same time keeping the prices producers receive *up* enough to cover their costs and induce them to stay in business.

Ideas + Savings = Production

Not many centuries ago men had little energy available except what they produced from their own labor, that of a few animals, running water and the wind when it blew. And effective use of these energy sources was thwarted by primitive technology and lack of capital. Only about a thousand years ago did people find a way to harness horses so they would not be choked when pulling heavy loads and a means to protect the hooves of horses and oxen on rocky ground. Large windmills or waterwheels were not developed until 400 to 500 years ago because there was no call for them; the poor state of the roads limited both the quantities of raw materials a mill could obtain

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and the distances the finished goods could be shipped.

Until fairly recently men pushed, pulled and pounded as best they could with their own muscles and elbow grease. They dug and scratched the earth using simple tools that soon dulled. At times, they had help from beasts of burden. But gradually men with ideas and vision made changes. They found ways to fashion more and better tools. They saved, accumulated capital gradually, until they could take time to build more elaborate tools and engines that produced more power. They found better ways to use old fuels and they discovered new sources of energy. In this way, innovations, often very simple ones, enabled men step by step to improve their tools and use of natural resources and increase their production of consumable goods. All the things we have today are products of ideas and vision plus savings.

As the firewood of England was approaching exhaustion, men with ideas and vision turned to coal. As transportation by land and water improved production and savings increased, they devised larger waterwheels to run their mills. When entrepreneurs were looking for ways to increase the output of their small factories, several inventors came up with designs for engines that could convert coal to steam power. Even as economist Jevons was warning in the 1860s that the increasing inaccessibility of coal would force British producers and consumers to cut back, huge supplies of petroleum were being found in the United States. Necessity, as the proverb says, is the "mother of invention"—if, and only if, men with ideas and vision are free to follow through.

Energy Developments Since World War II

Few people can conceive of the ingenuity producers will show—if free to try and to profit—when challenged by a scarcity of raw materials and a rising demand from consumers. Millions of natives had roamed the Middle East without realizing the potential wealth in oil that lay underfoot. Large scale production of oil in that part of the world has been primarily a post World War II development. Companies, employing men with ideas and vision, foresaw a rising demand throughout the world for products that require the consumption of energy. With the aid of savings and large accumulations of capital, they explored and developed the oil fields of the Middle East. They often constructed complete cities to house and supply their workers in that harsh, desert climate.

At first local officials were fairly cooperative. Production boomed. However, the spirit of nationalism

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was on the rise. The Arab nations soon began to impose higher and higher taxes and to threaten confiscation or nationalization. Oil companies also became alarmed at the threat of serious conflict between Israel and the Arab nations which could disrupt shipments of oil from there to the United States. Yet, they anticipated that the energy demands of consumers throughout the world would continue to rise. So they sent geologists to other parts of the world.

The Alaska Pipeline

In 1968, representatives of the Atlantic Richfield Company found oil on the northern slope of Alaska, near Prudhoe Bay. Before long it appeared that this was an extremely rich source of oil. In 1969, several U.S. firms bid more than $900 million for drilling rights. Their next concern was how to transport oil from the northern slope of Alaska to consumers in the lower 48 states. By land or by sea?

In 1969, Humble Oil Company, with Atlantic Richfield and BP Oil Corporation participating, dispatched the *S. S. Manhattan,* a thousand-foot oil tanker, to search for a northwest passage connecting the Atlantic and Pacific oceans. This tanker pounded through the ice and finally succeeded where explorer Henry Hudson had failed, reaching the oil fields of Prudhoe Bay. Thus, men with ideas and vision demonstrated that oil *could* be transported to the rest of the world by oceangoing tankers—if the cost were not prohibitive. At the same time, the oil companies were investigating the construction of a pipeline running southward from Prudhoe Bay to Valdez on Alaska's southern shore. This pipeline route soon appeared the more feasible and economic way to ship the Alaskan oil. As arrangements to extract the oil proceeded, so did plans to construct the pipeline. But work on the pipeline was soon halted.

For 10 or 15 years, conservationists had been pointing out that energy-using producers and consumers are continually polluting the environment. In 1969, at their urging, Congress had enacted the National Environmental Policy Act, effective January 1, 1970. The Council of Environmental Quality and the Environmental Protection Agency were set up, with certain powers to compel business firms to clean up waste products and refrain from polluting the waterways and the atmosphere. Conservationists also persuaded Congress to pass a law to protect plants and animals that might be threatened with extinction because of industrial development.

In 1970, three environmental groups—the Wilderness Society, the Environmental Defense Fund and

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Friends of the Earth—claimed that the National Environmental Development Policy Act required the U.S. Department of Interior to file an "environmental impact statement" before granting a permit for the construction of the oil pipeline in Alaska. The warnings of environmentalists were strengthened by several well-publicized oil spills—notably that from the tanker *Torrey Canyon* off England in March 1967 and the January 1969 leakage offshore near Santa Barbara, California. Thus, the permit for construction of the Alaskan pipeline was withheld for several crucial and costly years—out of concern for the environment, the permafrost and the wildlife. Also delayed as a result was the delivery of oil from the new fields to consumers in the lower 48 states. Not until Congress passed a special enabling act, signed by President Nixon on November 16, 1973, could the pipeline construction be resumed.

During these years, 1970-1974, many problems materialized which the oil firms had anticipated and for which their employees with ideas and vision had tried to prepare by expansion, research, exploration and development. The energy demands of consumers rose. Conflicts continued in the Middle East. Oil shipments from there became ever more uncertain. The Arab nations, with other oil producing countries, set up the Organization of Petroleum Exporting Countries (OPEC), a cartel to enhance their bargaining position and raise the selling price of their oil.

Confiscation

The oil companies' fear of confiscation or nationalization was borne out. In 1973, Libya took over the properties of several foreign oil companies. Rather than nationalize directly, some OPEC nations levied confiscatory taxes and fees on firms with facilities within their territories. Then in October 1973, the OPEC nations imposed an outright embargo on oil shipments. Throughout the world, wherever oil prices were flexible, they rose sharply. Wherever oil prices were regulated by governments, serious shortages and dislocations developed, with many cold homes, plant closings and long waiting lines at gas pumps. The lifting of the OPEC embargo in March 1974 alleviated the immediate crisis, but the wide-ranging effects of countless energy-related government regulations and controls persisted. To further complicate the international oil situation, the facilities of foreign oil companies in Venezuela were nationalized as of January 1, 1976.

During the years when the Alaska pipeline was delayed, most governments throughout the world were inflating their currencies, i.e., in-

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creasing the quantity of their money in circulation. This led inevitably to higher prices for almost everything needed to construct the pipeline and seriously complicated the necessary economic calculations. When governments are inflating, it is especially difficult for any business firm engaged in a long-range, time-consuming, large-scale project, requiring huge accumulations of capital, to calculate potential costs and selling prices. Projects such as the development of oil fields, the construction of a gigantic pipeline of sophisticated technology and the coordination of all these activities with those of oil shippers, warehousers and retailers throughout the world, call for huge savings and very complex economic calculations that are difficult or impossible in a world of volatile prices.

In addition to the uncertainties created by the delay, the Alaskan pipeline's cost rose substantially because of inflation. Its final cost was about $7.7 billion. Interest alone on the construction loans has been estimated at $1.1 billion. Also, if work had been permitted to continue as scheduled, the pipeline might well have been in operation before the 1973-1974 OPEC oil embargo. However, it was the summer of 1977 before the Alaskan oil began flowing.

The development of nuclear energy was actively encouraged and subsidized by government in the early years following World War II. Yet in the 1960s nuclear power plants became a special target of environmentalists. Legislation permitted them to adopt various delaying tactics. Often disregarding the property rights of others, they picketed, petitioned for delays and instituted suits. They widely exaggerated the environmental impact and potential risk of explosion of nuclear facilities.

Environmentalists succeeded in postponing for more than ten years FPC approval of Con Edison's nuclear-powered Storm King Project on the Hudson River. Approval was finally granted March 14, 1973—too late to be in operation when the OPEC embargo was imposed. Then actual construction was halted four months after it began—by court injunction still in effect as of this writing, pending study of the Project's effect on fish in the Hudson River. During these years of delay, brownouts and blackouts have been fairly frequent in the New York area. The most notable occurred November 9, 1965, when just at the evening rush hour the entire northeastern part of the country was blacked out for twelve or more hours. This is one instance when persons of vision and foresight, attempting to meet an anticipated rise in demand, have been frustrated by government interference and delays.

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Interventions Have Unwanted Effects

As pointed out, we must remember that no action has just a single consequence. This lesson is amply illustrated by our experience with recent government energy programs. Even the best intentioned legislation, whether designed as a piecemeal measure to cope with a special contingency or as a comprehensive program to encompass and coordinate all related activities, is bound to have unwanted results its advocates failed to foresee.

For instance, laws to safeguard the environment have required costly anti-pollution devices—scrubbers on power plants and catalytic converters on cars—which consume still *more* fuel, in violation of the goal of energy conservation.

Subsidies to encourage consumption or to support oil prices on the U.S. market tend to attract additional imports, in violation of another professed goal, energy independence. If imports are then legally restricted, the consumption of domestically produced oil may rise, hastening the depletion of existing domestic oil fields.

Dismemberment of the big oil firms, as some persons have suggested, would inevitably increase oil prices to consumers. Smaller firms could not take advantage of the same mass production methods or maintain facilities in other lands where resources may be more readily accessible, easier to extract and so available to consumers at lower prices. Advocates of this proposal apparently do not realize that business can become big and earn profits in a free market economy only by developing economies of scale and serving many customers better and cheaper than do their competitors.

Government officials are ill equipped to plan the development and distribution of any good or service. They cannot be specialists in every field. In proposing to regulate and control the development and distribution of any good or service they are short-sighted. Their vision of the economy is limited by mental blinders. They may recognize that adding a new tax or tariff to the market price of a good or service will prevent consumers from buying as much as before. They may realize that an offer of subsidies to producers, or consumers, will spur them to increase production, or consumption, of the good or service concerned. But they cannot see the *other* consequences of such legislation, because they cannot know what people will think or do.

They cannot know how producers and consumers will try to adjust to avoid unwanted side effects of the laws. They cannot know just how producers and consumers will respond to higher, or lower, prices. They do not know what is going on

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in the minds of individuals—inventors, entrepreneurs and consumers—who are always looking for ways to do things more easily, cheaply or better. They can never know what innovations may be developed that will prove to be the wave of the future. With respect to energy, government legislators and administrators cannot know what new production techniques, new ways to use old fuels, or sources of new fuels will be developed.

Energy Production in the Future

The provision of energy in the future will depend on the ideas, actions and savings of countless individuals. Just who will make important contributions no one can know in advance. Therefore, government should refrain from imposing restrictions that might hamper incentive. Individuals like those who conceived of the wheel, the harness and the steam engine, should be free to pursue their ideas, use their property as they wish, to save and invest and to try to improve present energy techniques.

Today's methods of energy production were developed by countless men of ideas and vision, each familiar with some particular aspect. Countless such individuals helped to develop oil in Texas, offshore Louisiana and California, Alaska, the Middle East, the North Sea and elsewhere, as well as to discover the as yet unproven fields in Mexico and off the United States eastern seaboard. The ideas, vision and savings of countless persons have made it economic to extract oil from far beneath the seas and coal from depths economist Jevons never dreamed of.

Elaborate designs for the development and distribution of energy have been devised. These ideas plus huge accumulations of capital have made possible the construction of extremely productive tools and equipment—propellers, furnaces, motors, turbines, batteries transformers, computers, oil drilling rigs, refineries, long distance pipelines, deepwater platforms, supertankers, offshore oil terminals with buoy moorings and pipelines direct to storage tanks on shore, gigantic power plants, high power transmission lines, and the like. Now on the drawing boards are potential schemes for deriving energy from waste, hydrogen, sea water, geothermal plants, satellite solar power stations, and so on. We cannot know just how energy will be developed and distributed in the years to come. But we can know that energy production in the future will depend on cooperation between savers and men of ideas and vision.

Whether the energy of future generations comes from the atom, the wind, the sun, the seas, the rivers, the earth, plants or some other still unrecognized resource must be left

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to those whose ideas and actions pave the way. We cannot expect any one in a legislative assembly and government office to plan successfully for the development of new energy sources or for adapting tools and machines to new fuels. No government program can provide for the satisfaction of future energy needs as well as individuals will if left to their own devices. If individuals are free to pursue their own ideas and vision, the energy demands of the future will be taken care of from day to day. Each inventor, saver, investor and entrepreneur will adapt and adjust to changing conditions in the course of daily living and working in the field of his special interests. And if the consumers of the future are also free to choose, each will decide how much energy to consume, and for what, on the basis of market prices prevailing then and the urgency of his various wants and goals.

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Sheldon Richman

WHAT THE INTERVENTIONIST OVERLOOKS

How many times has a detailed defense of the free market ended with a show of incredulity on the part of the advocate of interventionism?

A typical case might go like this: You have just argued that the market process and the principles of human action make it impossible for there to be long-term, mass, involuntary unemployment or inflation or depression or any of the evil attributed to capitalism, but actually caused by government tinkering.

The astonished defender of socialism inevitably will smile and say something like this: "Do you expect me to believe that all of these problems are caused by the government? That none of them is the result of capitalism; and that if we just got the government out of the market these problems wouldn't exist? Come on! It's too simple, too pat. Life isn't that easy. Wake up to the real world."

To a young libertarian just beginning to study the workings of a free society, a criticism like that can be devastating. After all, isn't it too pat? Isn't it too easy to blame the government for all these problems? Isn't it simplistic?

A brief reflection on the subject reveals that while it may be simple, it is far from simplistic. Simplicity, a forgotten rhetorical virtue, is hardly an indictment of an argument.

When faced with such criticism, the defender of the market would do well to remind his opponent of what's being discussed. The market, absent of force and fraud, is a shorthand term for a group of individuals cooperating in the pursuit of various goals. Striving after different values, working to realize divergent plans, possessed of diverse stores of knowledge, these individuals go their chosen ways, trading only when it is to mutual advantage.

Without intending it, such actions by individuals—their acceptance and non-acceptance of goods and services at market prices—generate a complex system in which all the diverse knowledge of the separate individuals is put into a form that is

Mr. Richman is a journalist and free-lance writer from Newark, Delaware.

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usable by all the market's participants. It is a system in which all people are left free to pursue their plans without constraint; where the wealth of information contained in market prices offers all the opportunity to rationally adjust those plans when appropriate. In short, the system that spins out of the actions of free human beings offers them the only peaceful, efficient way to deal with an uncertain future. (In this regard, see F. A. Hayek's *Law, Legislation and Liberty*, Vols. 1 and 2.)

Now, what is government intervention and what does it do to this process? Government intervention, when it comes down to it, is the power of the gun. It is brute force, pure and simple. Motives here are irrelevant. Whether the government is full of benevolent bureaucrats or pernicious politicians is of no consequence. If a seller charges more than the government-imposed price ceiling allows, he will be jailed or deprived of his property. The same fate befalls anyone who violates government edicts.

The opportunities of the market participants to make and attempt to realize their plans have been stymied. The system that makes the harmonizing of divergent plans possible has been distorted into one of inevitable clash due to government distribution.

Hayek writes, "The spontaneous order arises from each element balancing all the various factors operating on it and by adjusting all its various actions to each other, a balance that will be destroyed if some of the actions are determined by another agency on the basis of different knowledge and in the service of different ends."

Hayek here points out the interesting and crucial fact that the market is resilient and flexible regarding forces generated from within, but is easily thrown out of whack by forces from without, that is, political forces.

Is it any wonder that government intervention (read force) creates undesired consequences? Hardly. In fact, to argue that the free market is the only road to peace, prosperity and freedom ought to be a recognized truism. What could be a more obvious statement? It's like saying peace is peaceful or free people are free. That this is not grasped by most people illustrates how far our culture has departed from the liberal thought that characterized the late 18th and 19th centuries.

But the interventionist doesn't see it that way. Granting, for the sake of argument, that his motives are pure, he will insist that freedom, peace and prosperity can only be obtained by regulation. We must prevail upon him to explain this apparent contradiction.

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He will usually fall back on the "economic power" argument. In essence, he will say, "Okay, it is true I am advocating the use of government power. But only because in the free market some people will wield excessive economic power. Therefore, it is a choice of who should wield power for which purpose: economic power for private purposes or government power for public purposes."

A subtle—and hopelessly confused—argument. First, the distinction between public and private purposes is an illusion. The public is simply a group of private persons. So, all purposes are private. Similarly, all interests are "special."

And what is this "economic power" to which it refers? It can only be the power to produce things consumers desire. How can this be excessive? Our earnest interventionist is likely to reply that it becomes excessive when the provider is able to sell at an "excessive price." He becomes less earnest when reminded that (a) no one is forced to buy a good if he thinks the price is too high and (b) no one has ever bothered to define "excessive price." Perhaps an excessive price is one that consumers wish were lower. In that case, is there any price that is not excessive? (Incidentally, every day of the week people decide prices are excessive for them in their special circumstances. And they turn down the products in question.)

Backed up against the wall of reality, the interventionist reveals his confusion about two other items: consumer demand and the pricing system.

If a consumer cannot afford a product, it is argued, his rights have been violated. But it cannot be true that a consumer has a right to another's product, for that would make the producer his slave. There would be an inequality of freedom. Our interventionist may then take the "created needs" tack. This is the argument, popularized by J. K. Galbraith, that producers use advertising to create consumer need for their products. Is it fair to create needs, then make the product too expensive for the consumer to afford?

This, too, is an illusion. No one can create a need. A person may learn to desire something and may expect to continue having it. But that is the result of his choice. All a producer can do is to inform a potential consumer about a product. He cannot create a need. This would be obvious if the interventionist would think of all the things he doesn't buy, despite frequent advertisements. Or is he the only one immune to Madison Avenue brainwashing?

"But people have to eat!" says the interventionist. "The seller is wielding power over us by charging us too much for food."

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It is true that people have to eat and use other goods to live. But this is not the fault of producers. It is a condition of nature that mortal men need to produce certain values to maintain their lives. Does it make sense to blame this condition on those who produce those values? Does it make sense to criticize them for not doing more than they have done? Does it make sense to attack them for not offering to become serfs? This is an ill-considered position for sure.

It also ignores the fact that no one has ever controlled or could ever control all the food production resources and the further fact that all products have substitutes. The upshot is that no one, not even the alleged monopolist, is immune from market competition.

The ignorance of the pricing mechanism is even more profound. The interventionist believes that prices are arbitrary. To be more precise, he thinks that prices begin at some point above "costs," and that any particular price is arbitrarily set by the seller.

"He can charge any price he wants," sums up the attitude. Well, it's true that a seller can ask any price he wants. But that doesn't mean he can get it.

Prices are not arbitrary and they are not determined by "costs." They are set by the intensity of consumer demand for the existing supply. If an apple pie that costs $3 to produce can command a price of only $1 on the market, no seller is going to hold out for $3 or more if his interest is profits. The fact that it costs $3 to produce is of no interest to consumers. Their concern is whether the satisfaction the pie will render is greater than what they are being asked to give up for it. The seller's costs are irrelevant.

According to the subjective theory of value, the value of an item exists in the mind of the person who would use it. Far from costs determining prices, it is really the other way around. The costs of factors of production will be determined by the price producers expect the final good to command in the market.

What all this means is that consumers have as much control over prices as do producers. Each has the ability to say "no."

The foregoing demonstrates that the interventionist prefers the power of government to impose its arbitrary will to the power of people to produce for the satisfaction of consumer desires.

Well, that's his choice to make. But please let's make certain he knows what he's advocating. One cannot make claims to rationality by advocating force to achieve peace, restraints on production to achieve prosperity, and slavery to achieve freedom.

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World in the Grip of an Idea

Clarence B. Carson

21. The United States: The Thrust to Transformation

THE OCCASION was a civilized one, very nearly formal, and certainly decorous. Military personnel in their dress uniforms presented the colors. The well dressed audience, many of the women in full-length evening dresses, stood for the singing of the *Star Spangled Banner*. A multi-coursed dinner was served by male waiters, well trained in those flourishes which add to the decor of an occasion. A goodly number of prominent people were present, and the main speaker was the lieutenant-governor of the state. The audience was well mannered, polite, and conscious of doing the right thing by applauding at all the places where it seemed to be indicated. Civility was an unannounced guest of honor at the occasion.

For a brief span of time in the midst of the proceedings, two men entered the room. Their attire was only a slight improvement over that of ranch hands returning from a long cattle drive. One of the men wore a cap which remained on his head for the whole time they were there. One man was a photographer, and the other was his lighting assist-

In this series, Dr. Carson examines the connection between ideology and the revolutions of our time and traces the impact on several major countries and the spread of the ideas and practices around the world.

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ant. They went about their picture taking with no apparent regard for the audience or participants, standing between some of the audience and the dais, moving about at will, shining bright lights here and there, and making it difficult for all others there at the high point of the proceedings.

Undoubtedly, the photographers were invited to come to take pictures. Undoubtedly, too, they were going about doing so in the most direct way. My point, however, is that they were an alien element in our midst. Their attire and manner would have been little different if they had been photographing hogs wallowing in their mire. Our manners, our customs, and our purposes could hardly have concerned them less if they were invaders from Mars.

My larger point is this. There is an alien force in our midst, a force (or pervasive influence) which is alien to our manners, customs, traditions, morality, and institutions. We are all familiar with it in its most obtrusive form, that of the newsman or reporter. We have all seen such reporters, at least on television, crowding about some person, pushing for attention, shoving microphones in his face, blinding him with flashbulbs, and insistently demanding answers to questions which are none of their business. It is a good analogy to think of them as wolves, baying at some prey they have surrounded, preparing to strip his garments away and render him helpless before them.

The Communications Industry

Reporters are, however, only the most colorful of a much more extensive alien element. It holds sway in a whole vast industry, or, more precisely, a congeries of industries. In its lesser dimension, it is often referred to as the communications industry, the opinion industry, or, simply, the media. In its broader dimensions, however, it embraces much more: the entertainment industry, the information and education industry, and a vast assortment of other businesses which lie on the periphery of these. It includes records, tapes, books, magazines, movies, radio, television, newspapers, much of live entertainment, schools, a portion of organized religion, the world of fashion—clothing, hair styling, adornment—and so on. In terms of impact, it might best be called the Lifestyle Industry. In terms of its thrust, it should be called the Transformation Industry.

If it be considered a single industry, it is a huge industry, and much of it is highly profitable. The publishing industry alone is so vast and profitable that large corporations have bought old houses in order to diversify and become more profitable. The ownership of a television sta-

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tion is the nearest thing there is to a franchise to print money in the United States. Although the Lifestyle or Transformation Industry includes activities that are generally not profitmakers, such as schools, those who work in them are often well rewarded.

Despite the size, sway, and profitability of much of this industry, a strange and apparently contradictory development has been taking place over the last decade. As business in general has been ever more closely regulated and controlled, as much of business has been turned into an instrument of government, the Lifestyle or Transformation Industry has been breaking loose from such regulations and controls over it as there have been. An ever wider arena of freedom from either social or political control for those in this industry is being carved out. The tendency is for the Lifestyle Industry neither to be controlled by government nor to be an instrument of government. Its thrust is rather toward the control and use of government and to assume for itself the role of society.

Much of the great tradition of liberty in the United States has been pre-empted by the Transformation Industry and instrumented for its specialized purposes. The industry relies mainly on the First Amendment to the Constitution to expand the boundaries of its uncontrolled activities. The Amendment reads, in part: "Congress shall make no law . . . abridging the freedom of speech or of the press; . . ." It has long since been stretched far beyond the meaning which could be deduced from its language to include all governments and is widely used to inhibit any criticism of things spoken or written. The battle cries of "censorship" and "academic freedom" are employed to deter any control over the press and schools.

Liberty into License

Freedom, it has been said, is like a seamless cloth. Those who point this out have been most often inclined to argue that you cannot have freedom of speech, press, religion, and political activity without the corresponding freedoms entailed in private property, trade, enterprise, and managing your own affairs. The theory supporting this view is well established, and much historical evidence can be adduced which tends to prove it. But there is another aspect of this principle which is not usually noticed. It is that partial liberty tends to degenerate into license.

When does liberty become license? Or, when does the exercise of liberty become licentious? One way to answer the question is to say that liberty becomes license when its exercise intrudes upon the realm of other people and becomes abusive.

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Another way is to note that liberty tends to become license when it is cut loose from that to which in its proper exercise it is responsible. The principle can be stated more directly: Unrestrained liberty tends to become license. Partial liberty, enjoyed by some portion of the populace only, that is unrestrained not only becomes licentious but tyrannical. Freedom without responsibility is indistinguishable from tyranny.

Those who claim that everything must be regulated are correct. (The fact that we have come to identify regulation with something that government does in our day should not mislead us on this point.) The principle may be most readily grasped by a mechanical illustration of it. Every automobile is equipped with a generator or alternator and battery. The battery is for storing electricity, and the generator is for replenishing the supply. However, the electricity cannot go directly from the generator to the battery. Between the two is a voltage regulator, a device which keeps the voltage entering the battery within a tolerable range and prevents the battery from being overcharged and destroyed. All transmitted electricity requires similar regulation.

In a like manner the amount of fuel going into an engine must be regulated. The driver of an automobile regulates the fuel by depressing or releasing pressure on the accelerator. It is impractical, however, to regulate the amount of fuel going into all engines this way. For example, power mowers need more or less fuel depending on the height, thickness and toughness of the grass that is being cut. Lawn mowers are equipped with governors to provide regulation in ordinary circumstances. Without them, lawn mower engines would either be continually stalled or run dangerously fast most of the time.

Market Pricing

Price is regulated in the free market by supply and demand. The demand is kept within the confines of supply by variations in the price. Price is held down and supply is kept up by competition. It happens, too, that so far as the quality of material goods and physical services is concerned, better quality generally sells for a higher price and poorer quality at a lower price, other things being equal. (With fruit and vegetables, the time of year or season must be taken into account, of course. High quality tomatoes are usually less expensive in summer than are the poorest quality in winter.)

But the laws of economics are almost entirely ineffective in regulating quality by price in the intellectual and spiritual realm. It costs no more to reproduce the words in the

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Bible than it does those in the most scabrous pornographic novel. Once the recording has been made, it costs no more to make copies of Mozart's harmonic symphonies on records or tapes than it does of the outrageous noise of the Sex Pistols. Supply, demand, and competition still regulate price, but the market has no device for registering spiritual and intellectual quality.

The market, as the late Ludwig von Mises was fond of pointing out, is democratic in tendency. It tends to provide the greatest number and variety of goods to the greatest number of people. It responds to the most widespread and urgent demands. The market, as such, has no values, no standards, no morality, except such as are fed into it by buyers and sellers. The market is, let us face it, a potential monster, catering to the most debased taste, the most depraved yearnings, and ready to provide the perverted with the means for practicing their perversion.

There is, normally, a corrective to and inhibitor of this monstrous potentiality of the market. Normally, the free market does not exist and function alone and in splendid isolation; it is an integral aspect of freedom and responsibility within the society generally. The free market is a part of the seamless cloth of the free society.

The market may be democratic, but society is, by nature, aristocratic. The market, as such, may be value free, but society is value laden, ever sifting in a timeless way the wheat from the chaff. The market is a mechanism of society. Society is the normal regulator of the market, insisting upon quality as well as quantity, inhibiting what may be bought and sold there, bringing standards, values, taste, judgment, and morality to bear on what takes place there.

Regulations Abound

This brings us to what has happened and what is happening in the United States. There should be no doubt that the fabric of liberty is torn. There is not a free market in general. The market is hampered, restrained, controlled, planned, and intervened in by government. Meanwhile, a limited aspect of the market, that which offers fare for the soul and mind, is being given ever freer rein. It is not possible to buy an automobile without seat belts, but every sort of depravity is luridly described in books and magazines readily available. Diabetics may not be able to buy substitutes for sugar, but there is none so depraved that his tastes are not freely pandered to in the market.

More, society cannot effectively maintain its taboos today. It cannot bring to bear a discriminatory taste, judgment, the weight of custom and tradition, and morality upon what is

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sold in the market. Its prescriptive powers have been largely deactivated. Society is wounded and crippled where it is not entirely disabled. The regulator has been removed from that portion of the market that is free.

How this has come about is too large a story to tell in all its detail. It is much too complex to do more than call attention to the outlines of the process here. One thing should be clear: It has come about largely as a result of government intervention in and inhibition of society. Society wields its influence and maintains its prescriptions by a great variety of customs, institutions, traditions, and organizations. The most basic institution of society is the family. The basic tasks of the family are the nurture and upbringing of children, the provision for those in their midst who are unable to take care of themselves, and the looking after aged relatives. To accomplish these tasks, authority must be exercised, and divisions of responsibility must be maintained.

Paternalism

Government has now assumed much of the role of the family. Compulsory school attendance and government prescription of what must be taught relieves parents of much of their responsibility for the children and authority over their upbringing. Welfare and Social Security payments eroded dependence upon the family. When dependence is gone much authority is lost as well. The tendency of government intervention has been to reduce the family to an affectional unit, to remove much of its disciplinary authority, and to make it no stronger than the fickle ties of affection.

The authority of employers has been drastically reduced by government intervention. Every government prescription of wages, of hours, of working conditions, and of employer-employee relations reduces the authority of the employer.

A spirit of litigation afflicts Americans today. Patients are suing physicians, students suing teachers, employees suing employers, wives suing husbands, women suing men, blacks suing whites—even children suing parents. What this signifies, when it becomes rampant, is the breakdown of society, the substitution of force for persuasion, and the intrusion of government into every nook and cranny of life. It is a state of covert civil war superintended largely by federal judges. Those who bring suits may not realize it, but every suit invites, even requires, that the force of government be brought to bear to bring the parties into line.

What has all this, and much else of similar character, to do with the largely uninhibited onslaught of the Lifestyle or Transformation Indus-

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try upon us? It has everything to do with it. Society enforces its prescriptions mainly by approval or disapproval of acts. Public decorum, morality, and civility is maintained because the individual seeks the approval of others around him. In a similar fashion, good taste and high standards depend upon the desire people have for the good opinion of others.

It seems natural to many of us to wish to be in good standing with those with whom we come in contact. But for the generality it needs to be reinforced by exigent social ties. One seeks the good will of an employer, above all, to keep a job. Children obey parents, in the final analysis, because their livelihood depends on them. Men have a care to their language, observe the taboos, behave themselves not only because they wish to be well thought of but also because their well-being in general depends upon it. When these financial and familial supports are cut away, social prescriptions lose their bite.

The stage has been set, then, for the transformation of society. The social regulator which links freedom to responsibility has been disconnected. Business, in general, is ever more severely controlled and regulated. The Transformation Industry, by contrast, is enlarging its arena for freedom of action divorced from responsibility for the consequences. The media has assumed much of the prescriptive authority once exercised by society. It proclaims, often subtly, approved attitudes, rewarding those who conform and ignoring or punishing those who do not. Generals cower before the lash of enraged media-men, resign their positions, and retire to obscurity. But the media is not society; it is, instead, one of the alien elements thrusting toward social transformation.

The Urge to Transform

The Lifestyle or Transformation Industry is alien to American society in so far as and to the extent that it is bent upon transforming it. Some qualification is in order here. There is nothing inherent in journalism, in book publishing, in music making, or any other of these undertakings that would bend them toward transformation of society. Magazines may as readily defend as attack the existing social order. Education is, by nature, a conservative process whose main purpose has usually been imbuing the young with their culture and heritage. Undoubtedly, too, there are magazines and schools that have as no part of their purpose obstructing or transforming the social order. Almost any newspaper will have a considerable variety of material in it, much of which will have little or nothing to do with social transformation. Some

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television programs may lovingly portray aspects of our culture and heritage.

Be that as it may, for a considerable while now a major thrust of the media, education, the information industries, and entertainment has been toward social transformation. Intellectual fashion has prescribed social transformation as a desirable goal. The idea that has the world in its grip has held sway in the United States as elsewhere. Intellectuals bent on transforming have often pictured and thought of themselves as being an embattled minority. That is a misconstruction of the actual situation. They are a majority, or at least determine much of the course of things, in the intellectual realm. But they are alien to the society and, as such, do occupy a potentially precarious position. The fact that they are continually attacking and undermining the received social arrangements makes them aliens.

To grasp what has been happening it will be helpful to get in mind as clearly as can be what a society is. A society begins to be formed when two or more people begin to interact on a regular basis. What we speak of as society emerges from the modes that are tacitly agreed upon and accepted for interacting with one another. The society consists of those who accept these modes of behavior. The modes consist of manners, morals, conventions, customs, taboos, and traditions. Amongst civilized peoples, social prescriptions not only facilitate intercourse but tend to protect individuals in the enjoyment and use of what is theirs. (Those prescriptions that are amenable to it are often formalized as law.)

Social Conventions

Man was made for society, wise men have said, and there is no end to the advantages which follow from social cooperation. Indeed, the advantages of association and cooperation are so obvious and great that societies will continue to be formed so long as there are people. Social arrangements exist for the purpose of enabling people the better to enrich themselves by interacting with one another.

However, there is a nether side to the relations between people. All interaction between people is potentially abrasive, fraught with dangers of abuse of some persons by others, and sets the stage for every harmful act that can occur. Society exists for the specific purpose of providing means for keeping relations among people smooth. The more intimate the relations among people the more potentially dangerous the situation.

Taboos take shape especially to govern and restrain intimate relations. Since sexual relations are the most intimate of all relations, it is

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not surprising that taboos often are strenuously applied in this area. There is, for example, a near universal taboo against incest—a taboo which serves not only to abate the dangers of inbreeding but to protect the close family unit from the conflicts that would arise within it from sexual rivalries.

Social conventions tend to change with the passage of time. Sometimes, society gets religion, so to speak, professes very high standards, and is purified somewhat of its dross of accretions over the years. Social prescriptions change to deal with new conditions and new opportunities and dangers. Positive law often arises from social prescription, as well it should, but law is frequently too gross, precise, and inflexible for the complex and shifting shades of social prescription. But social change must be gradual, otherwise it is disruptive and confusing, thus failing to facilitate interaction or to protect individuals within it. A certain comfort within and accord with the rules of society is essential to the working of society.

Breaking Tradition

Socialists regard the received social arrangements as a major detriment to their undertakings. Revolutionaries require that they be destroyed. Evolutionary socialists attempt to change them gradually by law so as to merge government with society. At any rate, both agree that the whole complex of distinctions which society maintains must be broken down before man can be collectivized, communized or socialized. The received institutions, customs, and traditions provide a protective shield for the individual, a shield which must be broken before he can be melded into a mass.

The most drastic experiments with forced collectivization did not occur in Stalin's attempt to collectivize agriculture. They occurred in Soviet forced labor camps and in Nazi concentration camps. They were alluded to earlier in this work. They involved especially the uninhibited use of obscenities, profanity, and inducing the individual to violate various taboos. Alexander Dolgun, an American who spent years in Soviet prisons and labor camps, tells how when he was first put in prison he was subjected to a physical examination by a woman doctor who gave special attention to his private parts. This surely was not accidental, for it fit the general pattern of trying to break him down by removing the normal expectation of observing the social mores.

The most dramatic thrust of the Transformation Industry in recent years has been to break down or through the social prescriptions that have to do with the use of language and sex. Rampant public expression of obscenities became commonplace

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in the 1960's. Novelists began to lard their works with just about every vulgar expression imaginable. Underground newspapers printed the theretofore unprintable. Magazines, even some of general circulation, began to do likewise. Even more profound in its impact was the use of obscenities in the speech of characters in movies. After all, reading is usually a private undertaking. But movies have public showings as a rule, and are usually made for that purpose. Nowadays, profanity and obscenities are regular fare in movies designated PG (meaning acceptable for the admission of children but parental guidance suggested).

Many sexual taboos have been ignored and violated with impunity. The most intimate matters are now publicly discussed, written about, and portrayed in picture magazines and movies. Many restrictions are still observed in family newspapers, television, and radio, but they are being broken down there as well. Explicit descriptions of sexual intercourse were only available in brown covers to discreet patrons a generation ago. What was not then conceived as properly printable is now shown in technicolor on wide screens in movies. If present trends continue, in a few years the family can gather round to watch vivid portrayals of bestiality, necrophilia, and incest, with some orgies thrown in, on their home television sets. Such fare is already available on closed circuit television in hotels and motels.

Human Dignity Denied

Decorum is the condition of peaceful public assembly. Good manners are the clothes the civilization wears. By the clothes we wear we signify our respect for the sensibilities of others as well as our own dignity. Propriety in the use of language preserves the communion involved in communication. Custom, tradition, and morality are not merely the ornaments, they are the lineaments of society.

My point is this. What occurred as concentrated dosage in Soviet prisons and forced labor camps and Nazi concentration camps is now being done in a much less concentrated manner on a national scale by the Lifestyle or Transformation Industry. The defenses of life, liberty, and property are being removed by the hammer blows on our sensibilities. The right to life depends upon the prohibitions against murder. Sensibility for others is the foundation of the taboo against murder. There are religious sanctions against murder, but the acceptance, observance, and appreciation of these depends upon sensibility as well. Obscenity, vulgarity, and depravity publicly displayed are indications of a profound loss of respect for man. Liberty for

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such a man is no more than opening the gate and turning the beast out to forage at will. Such a man is no more worthy of property than would be a jackal.

The Collectivizing of Man

The Transformation Industry is bent toward collectivizing us. It is stripping away from us our civility, our decorum, our good manners, our taboos, our customs, our traditions, and our individuality. Man must be reduced to be collectivized, his language reduced to guttery curses, his body reduced to its respective and undistinctive parts, and his culture to its meanest remains.

The process may be observed most directly by attending a Disco. What made dancing civilized is almost entirely missing: the breaks from song to song, the dance patterns changing with the number, the couples dancing together. The music, or noise, is continuous at the Disco; colored lights flash in psychedelic fashion; the music is devoid of almost anything except blare and beat; and couples are not easy to discern. It is an orgy of dancing. It is, at once, each individual alone and the whole a collective mass driven to a frenzy directed by the disk jockey.

It is easy enough to believe that many of those in the Transformation Industry know not what they do. Since much of the industry is highly profitable, there is reason to suppose that many of those engaged in the business are not doing anything much but making money, at least so far as they are concerned. There is money to be made in pandering to man's baser desires, nor is there anything new about it. It is also true, however, that it is not necessary for those under the sway of an idea to know it. There is a kind of demonic urge to the egalitarianism implicit in the idea that has the world in its grip. Women must be the same as men, children the same as adults, all races the same, and each no higher than all others.

And, to prove it, we must all be disrobed. Here is a parable for our time, a parable that is factual, if the columnist, Bob Greene, who reported it, be accepted (Atlanta *Constitution,* May 19, 1978, p. 7-B). It seems that a photographer has put together a collection of his photographs which he calls "Dallas Nude." Charles R. Collum, the photographer, says that he took three and a half years on the project.

"My idea," he says, "was to show the city through its nude people. Dallas had the reputation as an uptight, conservative, banker-religious-middle-of-the-Bible-Belt city. I think that reputation was wrong. My pictures show Dallas being happy, innocent, exuberant, full of freedom." He accomplished this by photographing people from all walks of life—librarians, dental

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assistants, optometrists, nurses, bank tellers, and so on—in the nude. "The soul of a city," Mr. Collum is quoted as saying, "is in its people. And people without their clothes on are more expressive than people who are dressed."

Mr. Collum is so impressed with what he has done with, or to, Dallas, that he is eager to do the same for other towns and cities in the United States. Indeed, he has in mind an even more ambitious project, Greene reports, and has approached the State Department about it:

> I want to go to Russia and do "Moscow Nude." We were brought up to think that the Communists were bad people, were our enemies. But on a one-to-one level, I think the Russians are just as warm and wonderful as the people of Dallas. I think that "Dallas Nude" and "Moscow Nude" would go great together. Together, their message would be "Peace on Earth, good will toward men."

Why would such a notion strike anyone as plausible? Indeed, where would anyone get such an idea? Actually, the antecedents of Mr. Collum's idea are not difficult to trace. They are the progeny of Jean Jacques Rousseau, the spiritual godfather of our age. Strip away the cultural raiment, and man will emerge as a Noble Savage, Rousseau informed us. Man in the nude will be his natural, good self. This idea has worn a groove into the mind of an era. It is not necessary to read Rousseau to discover it; it is enough to breathe the fumes that emanate from the intellectual climate. The idea that has the world in its grip holds that man is naturally good but that he is deformed by his culture. Divest him of his culture, and the goodness will shine forth.

The Transformation Industry is under the sway of this idea. This is the demonic urge which impels its assault upon society, culture, manners, mores, and civility. There are quite an assortment of ways to go about it. A George Bernard Shaw comedy could go about it with style and verve. Nudity is a relatively innocent approach. The more powerful weapons are profanity, obscenity, vulgarity, and the vivid depiction of perversions. The record thus far shows that when the protective cover of culture has been removed, we are exposed to the more drastic forms of political power. It is a crucial part of the process of collectivization.

Next: *22: The United States: A Bemused People.*

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John Semmens

LAW OF THE JUNGLE VS. THE JUNGLE OF LAW

THE PROBLEM of uncertainty is endemic to any business venture. The more uncertainty there is, the greater the risk for the would-be entrepreneur. A rational response to such uncertainty is to seek to reduce it through either an improvement of one's knowledge about, or an increase in one's control over, the conditions pertaining to a prospective field of endeavor.

This urge to rationalize the vagaries of the business environment has frequently been manifested in a resort to law as a means of controlling uncertainty. With laws to regulate the prices and supplies of a good or service and with the vast information-gathering resources of the government at hand, the number of uncontrolled or unknown variables in the uncertainty equation ought to be reduced.

Reasoning like this inspired the creation of the Federal Power Commission (FPC) in 1930. Its objective was to control various aspects of the energy industry and thereby promote business prosperity and social justice. The agency was given a broad grant of authority to insure its capability for a flexible response to changing conditions. Its rulemaking was restricted only by the proviso that its actions be "just and reasonable."

With all this "logic" going for it, it should come as no surprise that the government's venture into energy regulation has been a disaster. Rather than the certainty promised by the imposition of deliberated policy upon the erstwhile fluctuations of free market "jungle," the resort to regulation has piled confusion on uncertainty with a result that is often incomprehensible.

If the market treats you "unfairly," there's not much you can do about it. If you can't make a profit in your present trade, you change your occupation. You don't petition to

Mr. Semmens is an economist for the Arizona Department of Transportation and is studying for an advanced degree in business administration at Arizona State University.

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have the law of supply and demand set aside. Such impersonal "injustice" has no remedy. One might as well complain about the law of gravity. However, let the "injustice" come at the hands of an agency of the government such as the FPC and we have a whole new ballgame on our hands.

The "injustices" made by law can be unmade by law as well. The avenues open to the "victims" in these instances include recourse to all three branches of government. First, the "wronged" party can go to the legislature and get the law changed. This is, at best, a long-range option. While it cannot be neglected, it is not as promising as efforts to influence the decisions of the Commission itself. This may prove more effective on a cost/benefit basis, but it, too, is future-oriented. The most immediate avenue to relief is our third option: appealing the decision to the next echelon of government officials, in this case, the courts.

Reliance upon the judicial system to "right" the "wrongs" of the FPC has been largely misplaced. The erratic gyrations of the Commission's attempts to grapple with forces of supply and demand have been matched by judiciary inconsistency. The jurisdictional issue, to take just one area of concern for those interested in what to expect in the way of energy regulation, has been "decided" three different ways since World War II. In 1946, the court settled on concurrent federal and state jurisdiction.[1] By 1963 the courts had shifted to a position upholding a doctrine of federal supremacy.[2] It was only two years later that the whole question was unsettled once and for all by a declaration that the precise boundaries between state and federal jurisdiction could only be adjudicated on a case-by-case method.[3]

This unfortunate course of events has effectively multiplied the uncertainties faced by business firms attempting to deal in services regulated by the FPC and various state agencies. Whenever the rules promulgated by these competing regulatory authorities differ, the prospect of litigation in order to resolve the jurisdictional boundary is virtually inevitable.

The potential for confusion is by no means limited to disputed jurisdiction. The history of judicial interpretations of FPC powers is not of a nature to relieve business anxieties over what rules will be applied even in situations clearly within the realm of federal control. As the law now stands, the FPC may (1) modify existing contracts when it deems such action to be in the public interest,[4] (2) make rate revisions retroactively,[5] (3) change its policy at its own discretion,[6] (4) define the phrase "just and reasonable" in different terms on different occasions,[7]

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(5) decide who shall bear the burden of proof in any given case,[8] (6) require individual companies to suffer losses.[9]

It should be apparent by now, that the attempt to supplant the "chaos" of the unregulated market with a system of "just and reasonable" man-made rules has produced disconcerting consequences for businessmen, investors, and ultimately consumers. In the less than 50 years since the creation of the FPC, the courts have bestowed their blessings on at least eleven different pricing formulas for natural gas.

None of this has been very helpful in solving our energy "problem." In place of the law of supply and demand (which a court declared nonbinding on FPC policies[10]), we have instead a shifting collage of rules and regulations. Far from reducing the number of uncontrolled variables in the uncertainty equation, this collage has added new dimensions of unpredictability to the basic task of meeting consumer needs with scarce resources.

The ambiguity of the initial enabling legislation must bear some of the blame for the resultant mess. The vague grant of power bounded only by the undefined structure that its exercise be "just and reasonable," is an invitation to contentious wrangling.

A more fundamental error, though, is the mistaken belief that the problems of material sustenance can be overcome by legislative fiat. The energy problem is the product of, on the one hand, resource scarcity and the technical difficulties of coping with such scarcity, and, on the other hand, the usefulness of energy products in satisfying ever-increasing human wants. In short, it's the same old supply and demand problem that has confronted mankind from the beginnings of the species. The only way it has been adjusted to our satisfaction has been through production. And, disappointing as it is, the invention of law isn't, hasn't been, and never will be a substitute for hard work.

—FOOTNOTES—

[1]*Memphis Natural Gas Company v. McCanless,* 194 S.W. 2d 476.

[2]*Northern Natural Gas Company v. State Corporation Commission of Kansas,* 83 S. Ct. 646.

[3]*People of the State of California v. Lo Vaca Gathering Company,* 85 S. Ct. 386.

[4]*United Gas Pipeline Company v. Mobile Gas Service Corporation,* 1956, 76 S. Ct. 373

[5]*Mississippi River Fuel Corporation v. Federal Power Commission,* 1960, 281 F 2d 919.

[6]*Atlantic Seaboard Corporation v. Federal Power Commission,* 1968, 404 F 2d 1268.

[7]*City of Chicago v. Federal Power Commission,* 1971, 458 F 2d 731.

[8]*Commonwealth of Pennsylvania v. U.S.,* D.C. Pa. 1973, 361 F Supp. 208.

[9]*Federal Power Commission v. Texaco,* D.C. 1974, 94 S. Ct. 2315.

[10]*Southern Louisiana Area Rate Case v. Federal Power Commission,* CA Tex, 1970, 428 F 2d 407.

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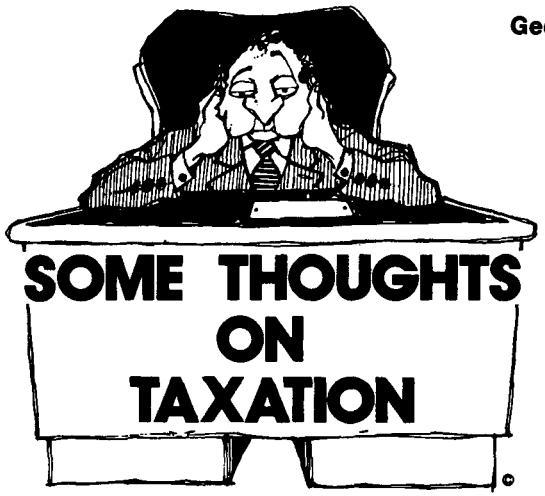
George C. Leef



WITH the exception of the weather, probably no subject is more complained about than taxation. Almost everyone feels that our tax system treats him unfairly, for one reason or another. The poor say that wealthy persons and businesses should pay more than they do, and the latter argue that the taxes they already pay are economically counterproductive. Politicians are forever promising tax "reforms" and legislative bodies debate the desirability of an endless variety of deductions, credits, exemptions and rates. The overall tax scheme which results is not predicated upon any principle, but rather is capricious, based only upon the respective success of each interest group in influencing the political process.

This, I submit, is an undesirable state of affairs. In pace with the rise of mass democracy, our tax system has become an institution for plunder, prodigality, and the gratification of envy. Many a shrewd politician has taken the easy road to power of promising the voters governmental services or subsidies paid for in the main by somebody else. The one discernible principle of our tax system, that of "progressivity," is inherently unjust, as it compels some to subsidize others' use of governmental services.

What we have is the ugly spectacle of a societal gang war, each group attempting to manipulate

Mr. Leef, a recent graduate of Duke University Law School, is now employed by Milliken & Company, Spartanburg, S.C.

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government so as to enrich itself at the expense of the others. This is possible—indeed, inevitable—because our tax system is not rooted in principles of *justice* (as are, *e.g.*, our property and tort law). But it need not be so. There is, I believe, one principle, and only one principle, upon which taxation could be based which avoids injustice to any citizen. It is the same principle which underlies all market transactions: You pay for what you get.

The Rights of Man

The view one takes of man's rights will inform his judgment on the moral defensibility of a system of taxation. I do not propose here to argue at length for the position I take, as that has been ably done elsewhere.[1]

Individuals have rights. Locke distilled the fundamental rights to these: life, liberty, and property. Each person has a right to be the master of his life, the only life he has. It may not be taken from him, and neither may it be made the tool of others. That property which justly comes into his possession is his to do with as he pleases—consume it, save it, exchange it, or give it away. The dominion of an individual over property excludes any rightful claim to that property by another. As Professor Nozick writes, "The particular rights over things fill the space of rights, leaving no room for general rights to be in a certain material condition."[2] This concept of man's rights is deeply embedded in our religious heritage, and was embodied in the earliest forms of the common law.[3]

Let us agree that man has a right to enjoy the fruits of his labor. Can there coexist with this right such alleged rights as the "right to decent housing" or the "right to an education"? The answer is no. As soon as an agent of compulsion, usually the state, takes any part of the fruit of one's labor from him in order to give effect to these other so-called rights, the primary right is violated. Then we can no longer say that man has a right to enjoy the fruits of his labor, but only that man is permitted to enjoy that which the state does not demand be put to purposes of its choosing. The degree of the taking does not matter. The right is vio-

[1]The reader may wish to consult in this regard F. A. Hayek, *The Constitution of Liberty*, especially chapter 2.

[2]*Anarchy, State and Utopia*, p. 238. The author cannot recommend this brilliant work of political philosophy highly enough.

[3]Interestingly, early Anglo-Saxon criminal law was actually tort law in nature. That is to say, the state demanded that restitution be made by criminals to those who had suffered at their hands, but itself exacted no punishment. One may wonder whether the contemporary state deprives the victims of crime of a property right when it incarcerates those who have committed offenses against their persons or property, thus making restitution difficult or impossible.

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lated whenever an owner is compelled to part with any portion of his property against his wishes.

The Nature of Taxation

Taxation is the price we pay for government services. Government takes (or keeps) from us an amount of property (money), calculated by various formulae, each year. During that year, government does certain things for (or to) its citizens. Each of these services has a cost per citizen, although some would be difficult to account for with certainty. Under our present tax system, however, there is no necessary relationship between the size of one's tax bill and the cost of the government services he has used.

If you go to get a haircut, the price you pay reflects the costs of the barber's time, his tools, rent on the shop, and so forth. It is deemed just that the recipient of the haircut should pay for these costs incurred on his behalf. Compare this with our tax system. Taxes are computed on the basis of income, wealth, purchases, and other measures. There is no attempt whatever to charge the costs of government to those people for whom they were incurred. Unavoidably, some taxpayers must pay more than the value of the government services they received while others pay less (or not at all). This system is undesirable for a number of reasons having to do with efficient use of resources, but I wish to focus on the reasons why it is *immoral.*

Taxation and Morality

First, our tax system is immoral because it compels some individuals to purchase government services which they do not desire. For example, many Americans contribute involuntary support to public schools even though neither they nor any children of theirs make any use of these facilities. There are also many citizens who drive very little or not at all, yet have no choice but to help underwrite the costs of our highway network. And there are those who, although they do not care for such things, are patronizing the fine arts through governmental subsidies.[4] In this, their rights are violated because they are deprived of the freedom to choose how they will dispose of their property.

Secondly, if taxation requires us to purchase services we do not want (or want less than other things we might have bought), a corollary is that we are compelled to subsidize

[4]The National Endowment for the Arts recently awarded a $6,000 grant to the producer of a film showing large rolls of crepe paper being tossed from an airplane and floating back to earth. This vicariously generous bit of artistic patronage earned Senator Proxmire's "Golden Fleece of the Month" award. See *National Review,* Sept. 30, 1977, p. 1090. Many other fantastic boondoggles are recounted in Donald Lambro's *The Federal Rathole* (Arlington House, 1975).

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services used by others, and this too is immoral. Payments for services we do not use, or use only to a small degree, usually go to reduce the amount that more extensive users need pay. For instance, those of us who make considerable use of public libraries are relieved of paying the full cost of our usage because of the tax dollars taken from occasional and nonusers which go to defray the expense. It is a violation of those rights which we posited above to compel someone to support another's desires or even needs, yet our tax system is a hopeless maze of involuntary subsidizations of some by others. The most obvious example of how the tax system is used to compel one person to make purchases for another is the phenomenon of transfer payments. Here, there is no governmental service at all, merely the taking of money from one person thought not to need it, and giving it to someone else. Such acts of robbery by indirection can occur only because our tax system does not link payments to benefits received.

Neither of the above objections to the morality of our tax system depends upon the existence of a "progressive" rate structure. If the government merely figured its costs and divided them equally among all taxpayers, we would object for the reasons given above. Progressivity is a separate issue, and must be regarded as a third indictment against our tax system.

We have had it drummed into us for so long that taxation should be based upon "the ability to pay" that this axiom is hardly ever questioned. (We might call it the Willie Sutton principle of taxation—"Why do you rob banks?" "Because that's where the money is.") Yet, upon examination, it cannot stand under our view of the rights of individuals.

When we say that taxation should be based upon "ability to pay," we are saying that two persons who use the same governmental services, and in the same amount, should pay different amounts of tax if their incomes are different. To illustrate the point, imagine two potters who live next door to each other. They place identical demands on governmental services in 1977 (use of roads, schools, national defense, *etc.*) and both pay the same amount of tax because they sold the same number of pots. Then, in 1978, one of the potters gets ambitious and produces and sells 15 per cent more pots than in the prior year. His neighbor produces the same number as he did in 1977. Their lives remain the same except that the ambitious potter now buys steak more frequently than hamburger and drives a new car instead of an old one. Oh yes, and he also has to pay the government more in taxes. But why should he have to? Why should he now

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have to pay, let us say, $1.10 per unit of service while his neighbor still pays only $1.00 per unit? There is no defensible ground for the discrimination. If the government was previously extracting a proper amount from our ambitious potter to cover the cost of the services he used, it now is taking too much; it is demanding more than the services are worth. That is unjust. I conclude that "progressivity" is a bad principle of taxation in that it charges different people different prices for the same service.

A Neutral Principle

We have seen that our present tax system is unjust in that it violates the rights of many citizens. What we desire is a tax system which will require the government to respect the rights of each, to remain neutral among taxpayers. I submit that such a system can be based upon this, and only this principle: The amount of tax one pays should equal the cost of providing the services he uses. In the market, there is only one price for a good or service, not a sliding scale based upon some notion of ability to pay, and no one is required to buy things he does not want. Government should be constrained to follow this principle in charging for its services.

How could this be put into practice? Wherever possible, government should finance its operations through user fees rather than taxes. A good, though not perfect example of what I have in mind is found in the U.S. Postal Service. (Of course, a large part of its budget comes from taxes and to that extent is immoral in compelling some people to subsidize others' use of the service, but we will ignore that. Ignore also the fact that there is no reason why the government should deliver the mail.) The price of a stamp is the same for each buyer, regardless of income. If you do not send any mail, you do not have to buy any stamps. Thus, this method of financing the service closely resembles a market transaction.

Other services could be treated similarly. Roads could be paid for through tolls and other forms of user fees, and schools (if we must have public education) could be paid for solely out of funds collected from those who use them. If put to the task, man's ingenuity would be able to devise means of accurately accounting for the costs of government-provided services and charging them back to those who caused them to be incurred.

There are, however, many elements of a government's budget which relate to administration and enforcement of the law rather than the provision of a service per se, and these create analytical difficulties. How, for instance, do we allocate to each citizen his just share of the cost

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of the Presidency, the Congress, or the Defense Department? Do we assume that everyone benefits equally from these expenditures and divide them accordingly? Or do we assume that persons with higher incomes or greater wealth benefit more from these expenditures, and therefore charge them more? To a considerable extent, these expenditures relate to the protection of property, and the proper analysis would seem to focus on how the market would handle analogous services. Premiums for property insurance contracts are largely a function of the value of the property covered. Therefore, an allocation of costs based upon wealth might be optimal. I do not claim that no better formula is possible, but propose the wealth tax idea merely to demonstrate the nature of the analysis which should underlie our approach to the just allocation of tax burdens.

The largest item of governmental spending in this country would be dramatically affected by the adoption of this principle. The item is transfer payments; they would cease. To see why, look to the principle. You pay for what you get. To get a dollar from the government, you would have to pay a dollar, plus administrative overhead. Obviously, there is no point in doing that. Many will think it unspeakably cold-hearted to suggest that the government not give anything to the needy, but it must be answered that the best policy is to rely upon individual charity and never allow the idea that the level of one's income is a matter for political consideration to gain a foothold. Bastiat was certainly correct when he wrote in *The Law* that government should not be allowed to do any act which would be a crime if done by an individual citizen. We do not permit even the neediest to steal. Neither should we permit the government to play Robin Hood.

The Free Rider Argument

Some will object to my analysis on the ground that since most people benefit in some way from governmental expenditures, it is not unjust to require them to pay for these benefits. For example, it is said that everyone benefits from the system of public education in this country because better-educated people improve society as a whole. I contend, however, that the free rider argument does not justify compulsory tax support for services one does not use.

In the first place, it is just too easy to *assume* that everyone is better off as a result of the provision of some governmental service.[5] Who among us is so all-knowing that he can

[5]Regarding the supposed benefits of public education, the reader should consider (or reconsider) E. G. West's article, "The Perils of Public Education", in the November, 1977 *Freeman*, p. 681.

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make the judgment not only that everyone benefits from some service, but what the *extent* of that benefit is in each case? No one, I answer.

Secondly, we should be extremely hesitant to allow the making of unilateral contracts. Even if you clearly benefit from an expenditure by someone else, we should prefer that you not be compelled to help defray the cost. Allowing others to direct in some measure how you spend your money by making you pay for "benefits" for which you have not contracted might very well deprive you of funds you need for things of greater value to you. It is true that an elderly couple might derive some benefit from public education, but requiring them to pay for that benefit for which they had not contracted deprives them of money needed to pay medical or utility bills. Everyone has his own hierarchy of values, and it is wrong for the government to demand that its hierarchy take precedence over the individual's.

Finally, people usually *do* pay for services rendered by others, albeit indirectly. Assume for a moment that public education does yield a benefit to all of society. *How* does each person benefit from this increase in erudition? Presumably, by the better products and ideas which educated people can produce. But unless one lives his life as a self-sufficient hermit, he will eventually pay for the educational component of the products he uses and ideas he absorbs, through the operation of the price system. Ph.D. chemists do not work for free—their salaries, part of which is a return on their educational investment, are reflected in the price of the things which their research makes possible. Thus, there is no free ride, and this objection fails.

Some Advantages

Not only is a system of taxation requiring citizens to pay taxes only to the extent of benefits received consonant with man's rights, but it would yield us some significant tangible advantages as well.

One benefit would be that no longer could government use taxation as a tool for social engineering or economic tinkering. The dense pages of the Internal Revenue Code are full of deductions and credits for use of money which the state wishes to encourage.[6] Since government is to be the servant of the populace and

[6]It has been persuasively demonstrated that federal tax policies are in large measure responsible for the plight of the large northern cities. The investment tax credit has encouraged firms to build new plants in uncrowded southern and western states, and their movement has been facilitated by the expansion of the interstate highway system, paid for in the main with tax dollars taken from the already-developed areas in the Northeast and Midwest. See, "How Federal Policies are Hurting the Cities", *Business Week*, December 19, 1977, p. 86.

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not its master, it is wrong for it to attempt to direct how we spend our money. Moreover, such interferences lead to inefficient use of resources. The deductibility of mortgage interest unjustifiably encourages home ownership; the deductibility of bond interest unjustifiably causes corporations to favor debt financing over equity. These interferences would be at an end if government had to link taxes to the provision of services, rather than to income or some other irrelevant measure. For instance, "business expenses" (lunches, travel, entertainment, *etc.*) would be immaterial to a company's tax bill if it were taxed on the basis of the cost of governmental services it used; thus, there would be an incentive to economize on these currently deductible items.

Another benefit would be that it would tend to get government out of the business of providing services appropriately left to the market. If people had to pay the full cost of using government services, they would quickly see how inefficient government is, and would turn to (or demand to be allowed to turn to) alternatives.

Finally, and perhaps most importantly, taxation based on benefits received would eliminate the government's motive for inflating the currency. Inflation is governmental additions to the money supply. (Rising prices are a consequence.) Governments resort to inflation because they desire to spend money in excess of the amount they dare to collect in taxes. Now suppose that government were operated as a service company, requiring all who partook of its services to pay for what they had used. Inflation would be impossible because government would *have to* balance its expenditures and receipts. With each person paying only the cost of providing him with services, there would no longer be any need, or motive, for government to resort to money creation to balance its books.

Conclusion

Freedom would be greatly expanded in this country if government could not compel us, through the tax system, to devote our money to services we do not want, and to subsidize services used by others. These annoyances frequently are part of a deliberate plan to redistribute wealth, which is inherently immoral; but even in the absence of redistributionist schemes, a tax system which does not base the amount of tax one pays on his use of government services is unavoidably unfair to some citizens.

The only tax system which would require government to treat each citizen neutrally—not forcing anyone to act as a tool for someone else more favored by the government—is

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one which embraces the concept that one should pay only for the cost of those services he actually uses. It is wrong to force one person to purchase government services for another, just as it is wrong to force him to purchase anything else for another. If a wealthy person is to pay more tax than a poor person, it should be because he causes the government to incur larger expenses on his behalf, and not simply because he has more money.

When people make purchases in the market, they expect to pay for what they get. They have no expectation that others will pay part or all of the cost for them. If it is just that each person pay the full cost of a haircut or movie ticket, then it is also just that he pay the full cost of those services which the government provides him. Others should not be expected to pay his way. Our present tax system is unjust in that it often compels one person to subsidize the government used by another. Government would have to remain neutral among its citizens if we taxed strictly on the basis of the benefits received by each person. Any other system becomes a breeding ground for injustice and social strife.

IDEAS ON LIBERTY

Progressive Taxation

PROGRESSIVE TAXATION of income by the federal government, which is currently practiced in the extreme, provides, first, that many voters of small income are either exempted entirely from paying, or pay very little, and, secondly, that successive increments of larger incomes are taxed at progressively increased rates that become confiscatory.

There is no justification in morals or in the principles of individual liberty for progressive taxation. It is the simple looting through law of the more productive by the more numerous but less productive. Its appeal is demagogic, and its result is communism, which in turn is but a transitory stage in the evolution away from liberty into dictatorship. The endorsement of progressive taxation is, knowingly or unknowingly, the endorsement of communism, and sincere endorsement of progressive taxation, motivated often by generosity, is unwittingly one of the worst forces undermining individual liberty in America.

BRADFORD B. SMITH, "Liberty and Taxes" (1947)

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TEXTBOOKS ON TRIAL

It was a case of "a little child shall lead them." Mel and Norma Gabler, living in Texas where Mel worked in the oil business, were quite happy with the public school system. They trusted the textbooks used by their three sons "almost as much as they did the Bible." But one day Jim, their oldest boy, brought a copy of *Our Nation's Story,* by Laidlaw Brothers, home and handed it to his dad. There was nothing in the book about restrictions on the federal government, and nothing about rights and freedoms retained under the Constitution by the people and the states. It was as if the Bill of Rights had never been written.

That set the Gablers off on a hunt. They looked into other history texts used in the Texas schools. It distressed them to see George Washington downgraded and Patrick Henry ("Give me liberty or give me death") ignored. In three of the economics textbooks which Mel Gabler dutifully read there was no effort to present fairly the American free enterprise system. The questions in most of the economics texts seemed designed to "subtly move the thinking of the student to the left."

Textbooks on Trial by James C. Hefley. Foreword by former Congressman John Conlan. Published by Victor Books, 1825 College Avenue, Wheaton, Ill. 60187, $6.95.

The Gablers had played a part in the local Parent Teachers Association, but it was "ritual" work. Believing that school personnel "knew best," they had not questioned the

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work of the Texas Education Agency in recommending appointees to the State Textbook Committee. When they asked about parents' rights in the matter of influencing textbook choices, they were told they might appear before an investigating committee in the State capital at Austin. Norma went to Austin and made a speech, her knees "jellied" and her voice quavering. When son Jim, who had accompanied her, asked for the right to "speak as a student" who had been afflicted with the questionable texts, he caused a commotion. The legislator in charge of the hearing uttered a "Well, uh, we've never had a student speak before." Jim was put off for a week, but he returned and presented his analysis of a book that had left him with the impression that, in the American Revolution, "Washington did little more than Baron von Steuben or Benedict Arnold." Reporters described Jim as a "gum-chewing East Texas kid," and quoted liberally from his remarks.

When the Gablers first took their cause to the investigating committee in Austin, they didn't know they were embarked on what was soon to become a lifetime crusade. There were so many school books to read, and nobody seemed to care very much that it took the tenacity of a leech to get early copies of the texts from the "system" that was debating their acceptance for use. The job of questioning the assumptions governing the recommendations of texts involved a thousand subtleties.

The Supreme Court interpretation of the Constitution forbade the teaching of religion in the schools. How, then, to acquaint students with a national heritage that stems, in good part, from the eighteenth century acceptance of the Christian ethos? The right of parents to oversee the moral training of their children would seem to be incontestable. This would justify parental objection to the use of pornography in the classroom. But when is literature pornographic, and when is it simply realistic? And what about "situation ethics"? How is one to teach a student to think if he is not to ask questions about the absolute and the relative? Darwin is part of scientific history, and evidence for evolution is written in the rocks. How to square this with the fact that there are gaps in the assumed evolutionary sequence? Even though the Biblical story of Genesis may be questioned in detail, the Creationists have not been routed. Indeed, evolution may very well be the Creator's way. But how do you give the theory of Creation, whether it be special or evolutionary, an equal standing in school biology courses without mentioning God, which gets us back to the Supreme Court's ruling that religious instruction in the schools is verboten.

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Fairness and Objectivity

In pushing their crusade for better textbooks in the public schools, the Gablers have had to rely on good taste and common sense. They have combined humor and persistence. In telling their story in *Textbooks on Trial,* James C. Hefley has caught the essence of their personalities. They are neither dogmatic nor fanatical. They don't expect miracles. They would be satisfied with a balance. Norma, speaking to Mel, put it this way: "It's our children, our tax money, and our government . . . If textbooks can't teach Christian principles, then they shouldn't teach against Christianity." As for economics, the Gablers think it is again a question of fairness and objectivity. They expect the Keynesians to have their say, but when a single textbook, McGraw-Hill's *Economics for Our Times* (1963), came out with "one page on the free enterprise system, six pages on socialism and Communism in which it defends liberal socialism, and two chapters on Big Government," it seemed that "objectivity" was getting the worst of it.

For years the evaluation of textbooks was an after-hours moonlighting proposition for Mel Gabler. Norma had to do the traveling and the public speaking. But now, with his early retirement from the oil business, Mel has turned to full time work with Norma in running their foundation, Educational Research Analysts. Their main business continues to be with Texas school boards and the Texas Commissioner of Education, but they do advisory work for concerned parents everywhere. During the controversy in West Virginia over textbooks they helped the embattled citizens of Kanawha County present their case for texts that would not "demean, encourage skepticism, or foster disbelief in the institutions of the United States of America and in the Western civilization." Although the country may have gotten the impression that a bunch of West Virginia hillbillies were trying to "censor" good literature in the mountain schools, the truth is that the West Virginia parents had a good case. Time-tested literary classics had been crowded out in favor of books whose obscenities appalled hardened newspaper editors when they were asked to print some samples in a full-page advertisement.

A Vexing Problem

Philosophically, the Gablers might favor private schools over public. But in Texas, which is where the Gablers were fated to live, they were confronted with the fact that there are few private schools. For their own three sons the Gablers had a choice: they could teach them at home, or they could fight what they call "the self-anointed

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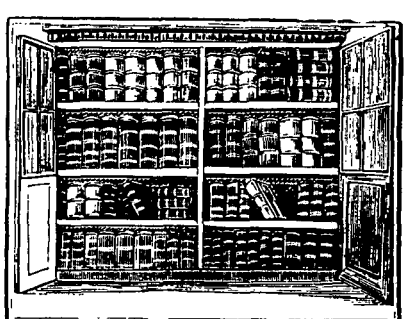
system of secular humanism" in the public schools. If, like the late Frank Meyer, they had chosen to teach their own children everything from reading to mathematics, they would probably have made a success of it. But this would not have solved the problem for other Texas parents.

Although the state, in public education, is not to be trusted, Mel and Norma Gabler think the pendulum is swinging their way. Says Norma, "disgusted parents" are calling everywhere for "going back to the basics—learning skills, traditional math, phonics, morality, patriotism, history that is really history, science that is science, and fair play for free enterprise economics."

The question is how to sustain embattled parents in their "disgust." Mel and Norma Gabler are giving it a good try, but what they really need is a wide revival of private schools to provide a competition that will force the public educators' hands. ⊕



WELFARE: THE POLITICAL ECONOMY OF WELFARE REFORM IN THE UNITED STATES
by Martin Anderson
(Hoover Press, Hoover Institution, Stanford University, Stanford, Calif. 94305)
251 pages ■ $10.00

Reviewed by Henry Hazlitt

A FEW OF US, over the last dozen years, have attacked the proposal of the guaranteed income and the "negative income tax" in its many guises; but it has remained for Martin Anderson of the Hoover Institution to devote a whole book to the subject, and to do such a thorough job of theoretical and factual analysis that it would seem hereafter impossible for anyone with a candid and open mind to read it and still take the guaranteed income seriously. Dr. Anderson's book can now stand as the definitive refutation.

Anderson brings to his task a triple advantage. He is first of all a first-rate academic economist. Second, he was himself once a bureaucrat. He was Special Assistant to President Nixon and a consultant to President Ford in the development of the Family Assistance Plan and the Income Supplementation Plan respectively. He knows how bureaucrats work, propagandize, and compile their data.

And finally, what is so rare among

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academic economists, he writes clearly, simply, incisively and with flavor. Frequent sentences relieve the tension of following his close analysis, such as: "In the sea of dark gray and blue that surrounded Nixon, Moynihan, in his cream-colored suit and red bow tie, gleamed like a playful porpoise."

The Arguments Assembled and Fully Documented

Anderson goes about demonstrating his case carefully and systematically. Each of his eight chapters is preceded by a like-numbered "thesis," which he then proceeds to demonstrate in almost Euclidian fashion.

His first thesis is that the "war on poverty" that began in 1964 has been won; that the growth of jobs and income, combined with an explosive increase in government spending for welfare and income transfer programs, has virtually eliminated poverty in the United States. In showing this, he is obliged to refute the influential findings of the Bureau of the Census that in spite of the hundreds of billions of dollars thrown at the poverty problem, there were 26 million persons, or 12 percent of the population, still below the poverty level in 1975—almost as many as when the "war on poverty" began. With the help of his own analysis, and of expert testimony, Anderson shows that the Census estimates are wildly inaccurate—one reason among others being that the Census estimates completely ignore transfers in kind. "People are not even asked," he writes, "if they received food stamps, live in public housing, or are eligible for Medicaid." Over $40 billion a year, Anderson points out, is spent by the federal government alone on such programs.

His second thesis is that the virtual elimination of poverty has had costly side effects—the most important of which has been the almost complete destruction of work incentives for the poor on welfare. In many cases families make almost no financial gain when the breadwinner works instead of staying on welfare. To cite a single instance, a Tennessee father who is eligible for food stamps and the unemployment insurance maximum gains only $4 a week by taking a part-time job paying $75 a week. As even the Joint Economic Committee of Congress pointed out in 1972, current government programs discourage work by imposing "the equivalent of confiscatory tax rates" on the resumption of work.

Spending Cuts Advocated

Anderson's third thesis, based on various opinion polls, is that the overwhelming majority of Americans favor welfare programs for those who cannot care for them-

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selves, while at the same time favoring large cuts in welfare spending because of their strong belief that many welfare recipients are cheating. A guaranteed income is flatly opposed by a two-to-one margin.

His fourth thesis is that the clamor for radical welfare "reform" comes essentially from a small group of committed ideologues who want to institute a guaranteed income under the guise of welfare reform.

His fifth thesis is that the institution of a guaranteed income will cause a substantial reduction—perhaps as much as 50 percent—in the work effort of low-income workers, and that such a massive withdrawal from the work force would have the most profound social and economic consequences. His estimate of this withdrawal from work is based not only on theoretical considerations, but on what happened historically (in the Speenhamland period of 1795 to 1834 in England, for example), and what various factual studies show has already been happening today.

His sixth thesis is that any variety of a guaranteed income is politically impossible; that no radical welfare reform plan can be devised that will simultaneously yield minimum levels of welfare benefits, financial incentives to work, and an overall cost to the taxpayers that are politically acceptable. Anderson's elegant demonstration that when any two of these three basic elements of radical welfare reform are set at politically acceptable levels, the remaining element becomes unacceptable, is perhaps his most original contribution in this book.

A Debatable Point

His seventh thesis is that practical welfare reform demands that "we build on what we have"—that we reaffirm our commitment to the philosophical approach of giving aid only to those who cannot help themselves, while abandoning any thoughts of radical welfare reform plans that will guarantee incomes. This is the only thesis in Anderson's book about which this reviewer would have some reservations. I agree entirely that we should abandon the "guaranteed income"—the unconscionable idea that all citizens have the right to be supported by the government, regardless of any effort they may or may not make to support themselves. But I think that Dr. Anderson neglects or underestimates the grave problems we have already created for ourselves by the mixed, haphazard, duplicative, and extravagantly costly relief system we have now built up.

Anderson's final thesis deals with President Carter's welfare reform plan, which he first presented in May of 1977, accompanied by statements that it would add only $2.8

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billion to previous welfare costs. Anderson finds that the program would add nearly 22 million more Americans to the welfare rolls (making the ultimate total some 66 million); that the federal cost of welfare would actually increase by about $20 billion a year, and that most of that added money would go to families with incomes above the poverty level. It would act as a serious disincentive to work. Though presented as a "simplification," it would be far more complex, require more welfare workers, and be more difficult to administer than the current welfare system. "It is a potential revolution of great magnitude that could result in social tragedy."

In an appendix Dr. Anderson lists and spells out in detail no fewer than ninety-one social welfare programs operating in 1974. Nobody knows exactly how many more have since been added.

I have been able to give only the sketchiest outline of the wealth of theoretical and factual analysis to be found in this book. But if one conclusion emerges above all others, it is that would-be reformers must abandon completely their search for any utopian solution to welfare problems.

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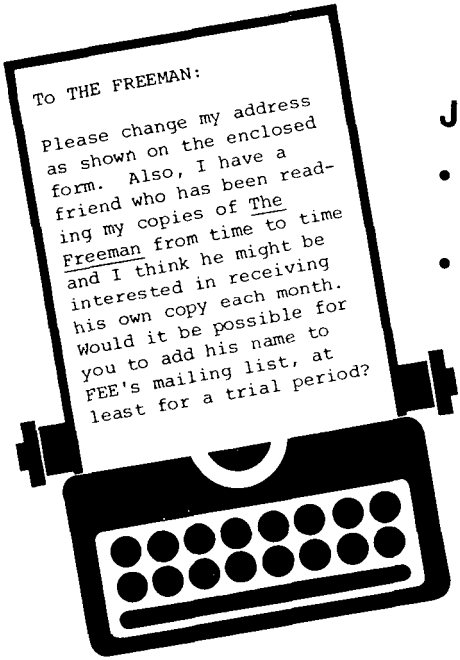
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What the Interventionist Overlooks ..... Sheldon Richman 542

World in the Grip of an Idea 21. The United States: The Thrust to Transformation .... Clarence B. Carson 546

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